

AMENDED IN SENATE APRIL 21, 2014

AMENDED IN SENATE APRIL 2, 2014

SENATE BILL

No. 1319

Introduced by Senator Pavley
(Coauthors: Senators Lara and Wolk)

February 21, 2014

An act to amend Sections ~~8670.37.53 and 8670.55~~ of 8574.4, 8574.7, 8574.8, 8670.2, 8670.3, 8670.5, 8670.7, 8670.8, 8670.8.3, 8670.8.5, 8670.9, 8670.12, 8670.14, 8670.19, 8670.25, 8670.25.5, 8670.26, 8670.28, 8670.29, 8670.30.5, 8670.31, 8670.32, 8670.33, 8670.34, 8670.35, 8670.36, 8670.37, 8670.37.5, 8670.37.51, 8670.37.52, 8670.37.53, 8670.37.55, 8670.37.58, 8670.40, 8670.42, 8670.47.5, 8670.48, 8670.48.3, 8670.49, 8670.50, 8670.51, 8670.53, 8670.54, 8670.55, 8670.56.5, 8670.56.6, 8670.61.5, 8670.62, 8670.64, 8670.66, 8670.67, 8670.67.5, 8670.69.4, and 8670.71 of, to add Sections 8670.32.5, 8670.40.5, 8670.90, and 8670.95 to, and to repeal Section 8670.69.7 of, the Government Code, relating to oil spills.

LEGISLATIVE COUNSEL'S DIGEST

SB 1319, as amended, Pavley. Oil spills: oil spill prevention and response.

(1) *The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act generally requires the administrator for oil spill response, acting at the direction of the Governor, to implement activities relating to oil spill response, including emergency drills and preparedness, and oil spill containment and cleanup, and to represent the state in any coordinated response efforts with the federal government. Existing law directs the Governor to require the administrator to amend, not in conflict with the National Contingency Plan, the California oil spill*

contingency plan to add a marine oil spill contingency planning section containing specified elements, including an environmentally and ecologically sensitive areas element. Existing law also requires the administrator to adopt and implement regulations governing the adequacy of oil spill contingency plans to be prepared and implemented and requires the regulations to provide for the best achievable protection, as defined, of coastal and marine waters.

This bill would generally expand the act and the administrator's responsibilities relating to oil spills to cover all waters of the state. By expanding the scope of crimes within the act, the bill would impose a state-mandated local program. The bill would direct the Governor to require the administrator to amend the California oil spill contingency plan to provide for the best achievable protection of all state waters, not solely coastal and marine waters, and to submit the plan to the Governor and the Legislature on or before January 1, 2017. The bill would require the regulations to provide for the best achievable protection of all waters and natural resources of the state. The bill would also revise various definitions within that act, and would make other conforming and technical changes.

(2) Existing law, until January 1, 2015, requires the administrator to develop and implement a screening mechanism and a comprehensive risk-based monitoring program for inspecting the bunkering and lightering operations of vessels at anchor and alongside a dock, to ensure that bunkering and lightering operations that pose the highest risk of a pollution incident are identified and are routinely monitored and inspected.

This bill would delete the January 1, 2015, repeal date for these requirements. The bill would require the administrator to develop and implement a screening mechanism and comprehensive risk-based monitoring program for inspecting nonvessel handling and transport of oil, to ensure that those operations that pose the highest risk of a pollution incident are identified and are routinely monitored and inspected.

(3) Existing law requires the administrator to offer grants to a local government with jurisdiction over or directly adjacent to marine waters to provide oil spill response equipment to be deployed.

This bill would instead require the administrator to offer the grants to a local government with jurisdiction over or directly adjacent to state waters.

(4) Existing law requires the administrator, within 5 working days after receipt of a contingency plan, prepared as specified, to send a notice that the plan is available for review to the Oil Spill Technical Advisory Committee.

This bill would instead require the administrator, within 5 working days after receipt of a contingency plan, to post a notice that the plan is available for review.

(5) Existing law requires the administrator to establish a network of rescue and rehabilitation stations for sea birds, sea otters, and marine mammals affected by an oil spill in marine waters.

This bill would instead require the administrator to establish a network of rescue and rehabilitation stations for wildlife injured by oil spills in waters of the state, including sea otters and other marine mammals. The bill would authorize the administrator to establish additional stations or facilities in the interior of the state primarily for the rescue and rehabilitation of wildlife affected by inland spills.

(6) Existing law imposes an oil spill prevention and administration fee in an amount determined by the administrator to be sufficient to implement specified oil spill prevention activities, but not to exceed \$0.065 per barrel of crude oil or petroleum products and, beginning January 1, 2015, to an amount not to exceed \$0.05, on persons owning crude oil or petroleum products at a marine terminal. The fee is deposited into the Oil Spill Prevention and Administration Fund in the State Treasury. Upon appropriation by the Legislature, moneys in the fund are available for specified purposes.

This bill would require the administrator to annually determine the fee in an amount sufficient to pay the reasonable regulatory costs of specified oil spill prevention activities, would delete the provision that reduces the fee beginning on January 1, 2015, and would prohibit the fee from exceeding \$0.065 per barrel of crude oil or petroleum products for the year beginning January 1, 2015, and ending December 31, 2015. The bill would additionally impose this fee on a person owning crude oil at the time the crude oil is received at a refinery, as specified, and would require every person who operates an oil refinery, marine terminal, or a pipeline to register with the State Board of Equalization.

(7) Existing law imposes a uniform oil spill response fee on specified persons, except specified independent crude oil producers, owning petroleum products during any period that the Oil Spill Response Trust Fund contains less than a designated amount. The money in the fund is continuously appropriated for specified purposes, including, to pay

for the costs of rescue, medical treatment, rehabilitation, and disposition of oiled wildlife, as specified.

The bill would delete the fee exception for independent crude oil producers, and would delete the provision authorizing the moneys in the fund to be used to pay for the costs of rescue, medical treatment, rehabilitation, and disposition of oiled wildlife. The bill would authorize moneys in the fund to be used to respond to an imminent threat of a spill. By expanding the purposes of a continuously appropriated fund, the bill would make an appropriation.

(8) Existing law, until June 30, 2014, provides that if a loan or other transfer of money from the Oil Spill Response Trust Fund to the General Fund pursuant to the Budget Act reduces the balance of the fund to less than or equal to 95% of the designated amount, the administrator is not required to collect oil spill response fees if the annual Budget Act requires the transfer or loan to be repaid (A) to the fund with interest calculated at a rate earned by the Pooled Money Investment Account and (B) on or before June 30, 2014.

This bill would extend that date to June 30, 2017, and would provide that these provisions would be repealed on July, 1, 2017.

~~The~~

(9) The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act prohibits a person from operating a marine facility, as defined, unless the owner or operator of the marine facility has obtained a certificate of financial responsibility. To receive a certificate of financial responsibility from the administrator for oil spill response, the act requires the owner or operator of a marine facility to make a specified showing of financial resources to the satisfaction of the administrator. The act authorizes the administrator to issue a certificate of financial responsibility on a lesser showing of financial resources for a period of not longer than 3 years if the administrator makes specified findings. ~~The act establishes the Oil Spill Technical Advisory Committee and requires the committee to provide recommendations to the administrator and other specified state entities regarding the implementation of the act.~~

~~This bill would reduce the time period for which the administrator is authorized to issue a certificate of financial responsibility based on the lesser showing to a maximum of 2 years. The bill would require the committee to monitor and evaluate the modes of transportation of oil into and within the state and the properties of the oil to identify necessary changes in oil spill response and preparedness programs.~~

delete the authorization granted to the administrator to issue a certificate of financial responsibility on a lesser showing of financial resources and would require the administrator to adopt regulations to implement the certification requirements.

(10) Existing law establishes the Oil Spill Technical Advisory Committee to provide public input and independent judgment of the actions of the administrator and requires the committee to provide recommendations to the administrator and other specified state entities. The committee is composed of 10 members.

This bill would increase the number of members from 10 to 14 and would require the Speaker of the Assembly and the Senate Committee on Rules to each appoint one additional member who has knowledge of environmental protection and the study of ecosystems, and would also require the Governor to appoint one additional member who has knowledge of the railroad industry and another with knowledge of the oil production industry. The bill would require the committee to monitor and evaluate the modes of transportation of oil into and within the state and the properties of the oil to identify necessary changes in oil spill response and preparedness programs.

(11) This bill would require each railroad intending to transport crude oil into or within the state on at least an annual basis to provide to the administrator with specified information.

(12) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares both of the
- 2 following:
- 3 (a) Shifts in how oil is transported to and within the state change
- 4 the accompanying risks and potential locations of oil spills.
- 5 (b) Properties of crude oil transported to and within the state
- 6 prior to refining may change over time and alter the risks posed

1 by an oil spill to human and environmental health and safety and
2 in responding to an oil spill.

3 *SEC. 2. Section 8574.4 of the Government Code is amended*
4 *to read:*

5 8574.4. State agencies designated to implement the contingency
6 plan shall account for all state expenditures made under the plan
7 with respect to each oil spill. Expenditures accounted for under
8 this section from an oil spill in ~~marine~~ waters of the state shall be
9 paid from the Oil Spill Response Trust Fund created pursuant to
10 Section 8670.46. All other expenditures accounted for under this
11 section shall be paid from the State Water Pollution Cleanup and
12 Abatement Account in the State Water Quality Control Fund
13 provided for in Article 3 (commencing with Section 13440) of
14 Chapter 6 of Division 7 of the Water Code. If the party responsible
15 for the spill is identified, that party shall be liable for the
16 expenditures accounted for under this section, in addition to any
17 other liability ~~which~~ that may be provided for by law, in an action
18 brought by the Attorney General. The proceeds from any ~~such~~
19 action for a spill in marine waters shall be paid into the Oil Spill
20 Response Trust Fund.

21 *SEC. 3. Section 8574.7 of the Government Code is amended*
22 *to read:*

23 8574.7. The Governor shall require the administrator, not in
24 conflict with the National Contingency Plan, to amend the
25 California oil spill contingency plan ~~by adding a marine oil spill~~
26 ~~contingency planning section that provides to provide~~ for the best
27 achievable protection of the coast and marine waters of the state.
28 “Administrator” for purposes of this section means the
29 administrator appointed by the Governor pursuant to Section
30 8670.4. The ~~marine oil spill contingency planning section~~ plan
31 shall consist of all of the following elements:

32 (a) A state ~~marine~~ response element that specifies the hierarchy
33 for state and local agency response to an oil spill. The element
34 shall define the necessary tasks for oversight and control of cleanup
35 and removal activities associated with ~~a marine~~ an oil spill and
36 shall specify each agency’s particular responsibility in carrying
37 out these tasks. The element shall also include an organizational
38 chart of the state ~~marine~~ oil spill response organization and a
39 definition of the resources, capabilities, and response assignments

1 of each agency involved in cleanup and removal actions in ~~a marine~~
2 *an* oil spill.

3 (b) A regional and local planning element that shall provide the
4 framework for the involvement of regional and local agencies in
5 the state effort to respond to ~~a marine~~ *an* oil spill, and shall ensure
6 the effective and efficient use of regional and local resources, *as*
7 *appropriate*, in all of the following:

8 (1) Traffic and crowd control.

9 (2) Firefighting.

10 (3) Boating traffic control.

11 (4) Radio and communications control and provision of access
12 to equipment.

13 (5) Identification and use of available local and regional
14 equipment or other resources suitable for use in cleanup and
15 removal actions.

16 (6) Identification of private and volunteer resources or personnel
17 with special or unique capabilities relating to ~~marine~~ oil spill
18 cleanup and removal actions.

19 (7) Provision of medical emergency services.

20 (8) *Identification, care, and evaluation of public health impacts.*

21 ~~(8)~~

22 (9) Consideration of the identification and use of private working
23 craft and mariners, including commercial fishing vessels and
24 licensed commercial fishing men and women, in containment,
25 cleanup, and removal actions.

26 (c) A coastal protection element that establishes the state
27 standards for coastline protection. The administrator, in
28 consultation with the Coast Guard and Navy and the shipping
29 industry, shall develop criteria for coastline protection. If
30 appropriate, the administrator shall consult with representatives
31 from the States of Alaska, Washington, and Oregon, the Province
32 of British Columbia in Canada, and the Republic of Mexico. The
33 criteria shall designate at least all of the following:

34 (1) Appropriate shipping lanes and navigational aids for tankers,
35 barges, and other commercial vessels to reduce the likelihood of
36 collisions between tankers, barges, and other commercial vessels.
37 Designated shipping lanes shall be located off the coastline at a
38 distance sufficient to significantly reduce the likelihood that
39 disabled vessels will run aground along the coast of the state.

40 (2) Ship position reporting and communications requirements.

1 (3) Required predeployment of protective equipment for
2 sensitive environmental areas along the coastline.

3 (4) Required emergency response vessels that are capable of
4 preventing disabled tankers from running aground.

5 (5) Required emergency response vessels that are capable of
6 commencing oil cleanup operations before spilled oil can reach
7 the shoreline.

8 (6) An expedited decisionmaking process for dispersant use in
9 coastal waters. Prior to adoption of the process, the administrator
10 shall ensure that a comprehensive testing program is carried out
11 for any dispersant proposed for use in California marine waters.
12 The testing program shall evaluate toxicity and effectiveness of
13 the dispersants.

14 (7) Required rehabilitation facilities for wildlife injured by
15 spilled oil.

16 (8) An assessment of how activities that usually require a permit
17 from a state or local agency may be expedited or issued by the
18 administrator in the event of an oil spill.

19 (d) An environmentally and ecologically sensitive areas element
20 that shall provide the framework for prioritizing and ensuring the
21 protection of environmentally and ecologically sensitive areas.
22 The environmentally and ecologically sensitive areas element shall
23 be developed by the administrator, in conjunction with appropriate
24 local agencies, and shall include all of the following:

25 (1) Identification and prioritization of environmentally and
26 ecologically sensitive areas in ~~marine~~ *state* waters and along the
27 coast. Identification and prioritization of environmentally and
28 ecologically sensitive areas shall not prevent or excuse the use of
29 all reasonably available containment and cleanup resources from
30 being used to protect every environmentally and ecologically
31 sensitive area possible. Environmentally and ecologically sensitive
32 areas shall be prioritized through the evaluation of criteria,
33 including, but not limited to, all of the following:

34 (A) Risk of contamination by oil after a spill.

35 (B) Environmental, ecological, recreational, and economic
36 importance.

37 (C) Risk of public exposure should the area be contaminated.

38 (2) Regional maps depicting environmentally and ecologically
39 sensitive areas in ~~marine~~ *state* waters or along the coast that shall
40 be distributed to facilities and local and state agencies. The maps

1 shall designate those areas that have particularly high priority for
2 protection against oil spills.

3 (3) A plan for protection actions required to be taken in the
4 event of an oil spill for each of the environmentally and
5 ecologically sensitive areas and protection priorities for the first
6 24 to 48 hours after an oil spill shall be specified.

7 (4) The location of available response equipment and the
8 availability of trained personnel to deploy the equipment to protect
9 the priority environmentally and ecologically sensitive areas.

10 (5) A program for systemically testing and revising, if necessary,
11 protection strategies for each of the priority environmentally and
12 ecologically sensitive areas.

13 (6) Any recommendations for action that cannot be financed or
14 implemented pursuant to existing authority of the administrator,
15 which shall also be reported to the Legislature along with
16 recommendations for financing those actions.

17 ~~(e) This section shall become operative on January 1, 2012.~~

18 ~~(e) A reporting element that addresses the requirements for the~~
19 ~~reporting of oil spills. Spills of any amount of oil to state waters~~
20 ~~shall be reported.~~

21 *SEC. 4. Section 8574.8 of the Government Code is amended*
22 *to read:*

23 8574.8. (a) The administrator shall submit to the Governor
24 and the Legislature an amended California oil spill contingency
25 plan required, pursuant to Section 8574.7, by January 1, 1993. The
26 administrator shall thereafter submit revised plans every three
27 years, until the amended plan required pursuant to subdivision (b)
28 is submitted.

29 (b) The administrator shall submit to the Governor and the
30 Legislature an amended California oil spill contingency plan
31 required pursuant to Section 8574.7, ~~by on or before January 1,~~
32 ~~2010, 2017, that consists of both a~~ *addresses marine oil spill*
33 ~~contingency planning section and an~~ *and inland oil spill*
34 ~~contingency planning section~~ *spills*. The administrator shall
35 thereafter submit revised plans every three years.

36 *SEC. 5. Section 8670.2 of the Government Code is amended*
37 *to read:*

38 8670.2. The Legislature finds and declares as follows:

1 (a) Each year, billions of gallons of crude oil and petroleum
2 products are transported by vessel, *railroad, truck*, or pipeline
3 across and through the ~~marine~~ waters of this state.

4 (b) Recent accidents in southern California, Alaska, ~~and~~ other
5 parts of the nation, *and Canada*, have shown that ~~marine~~
6 transportation of oil can be a significant threat to the environment
7 of sensitive ~~coastal~~ areas *and to the public health*.

8 (c) Existing prevention programs are not able to reduce
9 sufficiently the risk of significant discharge of petroleum into
10 ~~marine state~~ waters.

11 (d) Response and cleanup capabilities and technology are unable
12 to remove consistently the majority of spilled oil when major oil
13 spills occur in ~~marine state~~ waters.

14 (e) California's *lakes, rivers, other inland waters*, coastal waters,
15 estuaries, bays, and beaches are treasured environmental and
16 economic resources ~~which~~ *that* the state cannot afford to place at
17 undue risk from an oil spill.

18 (f) Because of the inadequacy of existing cleanup and response
19 measures and technology, the emphasis must be put on prevention,
20 if the risk and consequences of oil spills are to be minimized.

21 (g) Improvements in the design, construction, and operation of
22 *rail tank cars, tank trucks*, tank ships, terminals, and pipelines;
23 improvements in marine safety; maintenance of emergency
24 response stations and personnel; and stronger inspection and
25 enforcement efforts are necessary to reduce the risks of and from
26 a major oil spill.

27 (h) A major oil spill in ~~marine state~~ waters is extremely
28 expensive because of the need to clean up discharged oil, protect
29 sensitive environmental areas, and restore ecosystem damage.

30 (i) Immediate action must be taken to improve control and
31 cleanup technology in order to strengthen the capabilities and
32 capacities of cleanup operations.

33 (j) California government should improve its response and
34 management of oil spills that occur in ~~marine state~~ waters.

35 (k) Those who transport oil through *or near* the ~~marine~~ waters
36 of the state must meet minimum safety standards and demonstrate
37 financial responsibility.

38 (l) The federal government plays an important role in preventing
39 and responding to petroleum spills and it is in the interests of the

1 state to coordinate with agencies of the federal government,
2 including the Coast Guard, to the greatest degree possible.

3 (m) California has approximately 1,100 miles of coast, including
4 four marine sanctuaries ~~which~~ *that* occupy 88,767 square miles.
5 The weather, topography, and tidal currents in and around
6 California's coastal ports and waterways make vessel navigation
7 challenging. The state's major ports are among the busiest in the
8 world. Approximately 700 million barrels of oil are consumed
9 annually by California, with over 500 million barrels being
10 transported by vessel. The peculiarities of California's maritime
11 coast require special precautionary measures regarding oil
12 pollution.

13 (n) *California has approximately 158,500 square miles of*
14 *interior area where there are approximately 6,800 miles of pipeline*
15 *used for oil distribution, 5,800 miles of Class I railroad track, and*
16 *172,100 miles of maintained roads.*

17 SEC. 6. Section 8670.3 of the Government Code is amended
18 to read:

19 8670.3. Unless the context requires otherwise, the following
20 definitions shall govern the construction of this chapter:

21 (a) "Administrator" means the administrator for oil spill response
22 appointed by the Governor pursuant to Section 8670.4.

23 (b) (1) "Best achievable protection" means the highest level of
24 protection that can be achieved through both the use of the best
25 achievable technology and those manpower levels, training
26 procedures, and operational methods that provide the greatest
27 degree of protection achievable. The administrator's determination
28 of which measures provide the best achievable protection shall be
29 guided by the critical need to protect valuable ~~coastal~~ *natural*
30 resources and ~~marine~~ *state* waters, while also considering all of
31 the following:

32 (A) The protection provided by the measure.

33 (B) The technological achievability of the measure.

34 (C) The cost of the measure.

35 (2) The administrator shall not use a cost-benefit or
36 cost-effectiveness analysis or any particular method of analysis in
37 determining which measures provide the best achievable protection.
38 The administrator shall instead, when determining which measures
39 provide best achievable protection, give reasonable consideration
40 to the protection provided by the measures, the technological

1 achievability of the measures, and the cost of the measures when
2 establishing the requirements to provide the best achievable
3 protection for ~~coastal and marine~~ *the natural resources of the state.*

4 (c) (1) “Best achievable technology” means that technology
5 that provides the greatest degree of protection, taking into
6 consideration both of the following:

7 (A) Processes that are being developed, or could feasibly be
8 developed anywhere in the world, given overall reasonable
9 expenditures on research and development.

10 (B) Processes that are currently in use anywhere in the world.

11 (2) In determining what is the best achievable technology
12 pursuant to this chapter, the administrator shall consider the
13 effectiveness and engineering feasibility of the technology.

14 ~~(d)~~

15 *(d) “California oil spill contingency plan” means the California*
16 *oil spill contingency plan prepared pursuant to Article 3.5*
17 *(commencing with Section 8574.1) of Chapter 7.*

18 (e) “Dedicated response resources” means equipment and
19 personnel committed solely to oil spill response, containment, and
20 cleanup that are not used for any other activity that would adversely
21 affect the ability of that equipment and personnel to provide oil
22 spill response services in the timeframes for which the equipment
23 and personnel are rated.

24 ~~(e) “Director” means the Director of Fish and Game.~~

25 ~~(f)~~

26 (f) “Environmentally sensitive area” means an area defined
27 pursuant to the applicable area contingency plans *or geographic*
28 *response plans*, as created and revised by the Coast Guard, *the*
29 *United States Environmental Protection Agency*, and the
30 administrator.

31 (g) (1) “Facility” means any of the following located in state
32 waters or located where an oil spill may impact state waters:

33 (A) A building, structure, installation, or equipment used in oil
34 exploration, oil well drilling operations, oil production, oil refining,
35 oil storage, oil gathering, oil processing, oil transfer, oil
36 distribution, or oil transportation.

37 (B) A marine terminal.

38 (C) A pipeline that transports oil.

39 (D) A railroad that transports oil as cargo.

1 (E) A drill ship, semisubmersible drilling platform, jack-up type
2 drilling rig, or any other floating or temporary drilling platform.

3 (2) “Facility” does not include any of the following:

4 (A) A vessel, except a vessel located and used for any purpose
5 described in subparagraph (E) of paragraph (1).

6 (B) An owner or operator subject to Chapter 6.67 (commencing
7 with Section 25270) or Chapter 6.75 (commencing with Section
8 25299.10) of Division 20 of the Health and Safety Code.

9 (C) Operations on a farm, nursery, logging site, or construction
10 site, not exceeding 20,000 gallons in a single storage tank.

11 (D) A small craft refueling dock.

12 ~~(g) “Inland spill” means a release of at least one barrel (42~~
13 ~~gallons) of oil into inland waters that is not authorized by any~~
14 ~~federal, state, or local governmental entity.~~

15 ~~(h) “Inland waters” means waters of the state other than marine~~
16 ~~waters, but not including groundwater.~~

17 ~~(i)~~

18 ~~(h) “Local government” means a chartered or general law city,~~
19 ~~a chartered or general law county, or a city and county.~~

20 ~~(j) (1) “Marine facility” means any facility of any kind, other~~
21 ~~than a tank ship or tank barge, that is or was used for the purposes~~
22 ~~of exploring for, drilling for, producing, storing, handling,~~
23 ~~transferring, processing, refining, or transporting oil and is located~~
24 ~~in marine waters, or is located where a discharge could impact~~
25 ~~marine waters unless the facility is either of the following:~~

26 ~~(A) Subject to Chapter 6.67 (commencing with Section 25270)~~
27 ~~or Chapter 6.75 (commencing with Section 25299.10) of Division~~
28 ~~20 of the Health and Safety Code.~~

29 ~~(B) Placed on a farm, nursery, logging site, or construction site~~
30 ~~and does not exceed 20,000 gallons in a single storage tank.~~

31 ~~(2) For the purposes of this chapter, “marine facility” includes~~
32 ~~a drill ship, semisubmersible drilling platform, jack-up type drilling~~
33 ~~rig, or any other floating or temporary drilling platform.~~

34 ~~(3) For the purposes of this chapter, “marine facility” does not~~
35 ~~include a small craft refueling dock.~~

36 ~~(k)~~

37 ~~(i) (1) “Marine terminal” means any marine facility used for~~
38 ~~transferring oil to or from a tank ship or tank barge.~~

39 ~~(2) “Marine terminal” includes, for purposes of this chapter, all~~
40 ~~piping not integrally connected to a tank facility, as defined in~~

1 subdivision~~(m)~~ (n) of Section 25270.2 of the Health and Safety
2 Code.

3 ~~(l) “Marine waters” means those waters subject to tidal~~
4 ~~influence, and includes the waterways used for waterborne~~
5 ~~commercial vessel traffic to the Port of Sacramento and the Port~~
6 ~~of Stockton.~~

7 ~~(m)~~

8 (j) “Mobile transfer unit” means a small marine fueling facility
9 that is a vehicle, truck, or trailer, including all connecting hoses
10 and piping, used for the transferring of oil at a location where a
11 discharge could impact marine waters of the state.

12 ~~(n)~~

13 (k) “Nondedicated response resources” means those response
14 resources identified by an Oil Spill Response Organization for oil
15 spill response activities that are not dedicated response resources.

16 ~~(o)~~

17 (l) “Nonpersistent oil” means a petroleum-based oil, such as
18 gasoline or jet fuel, that evaporates relatively quickly and is an oil
19 with hydrocarbon fractions, at least 50 percent of which, by
20 volume, distills at a temperature of 645 degrees Fahrenheit, and
21 at least 95 percent of which, by volume, distills at a temperature
22 of 700 degrees Fahrenheit.

23 ~~(p)~~

24 (m) “Nontank vessel” means a vessel of 300 gross tons or greater
25 that carries oil, but does not carry that oil as cargo.

26 ~~(q)~~

27 (n) “Oil” means any kind of petroleum, liquid hydrocarbons,
28 or petroleum products or any fraction or residues therefrom,
29 including, but not limited to, crude oil, bunker fuel, gasoline, diesel
30 fuel, aviation fuel, oil sludge, oil refuse, oil mixed with waste, and
31 liquid distillates from unprocessed natural gas.

32 ~~(r)~~

33 (o) “Oil spill cleanup agent” means a chemical, or any other
34 substance, used for removing, dispersing, or otherwise cleaning
35 up oil or any residual products of petroleum in, or on, any of the
36 waters of the state.

37 ~~(s)~~

38 (p) “Oil spill contingency plan” or “contingency plan” means
39 the oil spill contingency plan required pursuant to Article 5
40 (commencing with Section 8670.28).

(t)

(q) (1) “Oil Spill Response Organization” or “OSRO” means an individual, organization, association, cooperative, or other entity that provides, or intends to provide, equipment, personnel, supplies, or other services directly related to oil spill containment, cleanup, or removal activities.

~~(2) A “rated OSRO” means an OSRO that has received a satisfactory rating from the administrator for a particular rating level established pursuant to Section 8670.30.~~

(3)

(2) “OSRO” does not include an owner or operator with an oil spill contingency plan approved by the administrator or an entity that only provides spill management services, or who provides services or equipment that are only ancillary to containment, cleanup, or removal activities.

~~(u) “Onshore facility” means a facility of any kind that is located entirely on lands not covered by marine waters.~~

~~(v)~~

(r) (1) “Owner” or “operator” means any of the following:

(A) In the case of a vessel, a person who owns, has an ownership interest in, operates, charters by demise, or leases, the vessel.

(B) In the case of a ~~marine~~ facility, a person who owns, has an ownership interest in, or operates the ~~marine~~ facility.

(C) Except as provided in subparagraph (D), in the case of a vessel or ~~marine~~ facility, where title or control was conveyed due to bankruptcy, foreclosure, tax delinquency, abandonment, or similar means to an entity of state or local government, a person who owned, held an ownership interest in, operated, or otherwise controlled activities concerning the vessel or ~~marine~~ facility immediately beforehand.

(D) An entity of the state or local government that acquired ownership or control of a vessel or ~~marine~~ facility, when the entity of the state or local government has caused or contributed to a spill or discharge of oil into ~~marine~~ waters *of the state*.

(2) “Owner” or “operator” does not include a person who, without participating in the management of a vessel or ~~marine~~ facility, holds indicia of ownership primarily to protect the person’s security interest in the vessel or ~~marine~~ facility.

(3) “Operator” does not include a person who owns the land underlying a ~~marine~~ facility or the facility itself if the person is not involved in the operations of the facility.

~~(w)~~

(s) “Person” means an individual, trust, firm, joint stock company, or corporation, including, but not limited to, a government corporation, partnership, and association. “Person” also includes a city, county, city and county, district, and the state or any department or agency thereof, and the federal government, or any department or agency thereof, to the extent permitted by law.

~~(x)~~

(t) “Pipeline” means a pipeline used at any time to transport oil.

(u) “Railroad” means a railroad, railway, rail car, rolling stock, or train.

(v) “Rated OSRO” means an OSRO that has received a satisfactory rating from the administrator for a particular rating level established pursuant to Section 8670.30.

~~(y) “Reasonable worst case spill” means, for the purposes of preparing contingency plans for a nontank vessel, the total volume of the largest fuel tank on the nontank vessel.~~

~~(z)~~

(w) “Responsible party” or “party responsible” means any of the following:

(1) The owner or transporter of oil or a person or entity accepting responsibility for the oil.

(2) The owner, operator, or lessee of, or a person that charters by demise, a vessel or ~~marine~~ facility, or a person or entity accepting responsibility for the vessel or ~~marine~~ facility.

~~(aa)~~

(x) “Small craft” means a vessel, other than a tank ship or tank barge, that is less than 20 meters in length.

~~(ab)~~

(y) “Small craft refueling dock” means a waterside operation that dispenses only nonpersistent oil in bulk and small amounts of persistent lubrication oil in containers primarily to small craft and meets both of the following criteria:

(1) Has tank storage capacity not exceeding 20,000 gallons in any single storage tank or tank compartment.

(2) Has total usable tank storage capacity not exceeding 75,000 gallons.

~~(ae)~~

(z) “Small marine fueling facility” means either of the following:

(1) A mobile transfer unit.

(2) A fixed facility that is not a marine terminal, that dispenses primarily nonpersistent oil, that may dispense small amounts of persistent oil, primarily to small craft, and that meets all of the following criteria:

(A) Has tank storage capacity greater than 20,000 gallons but not more than 40,000 gallons in any single storage tank or storage tank compartment.

(B) Has total usable tank storage capacity not exceeding 75,000 gallons.

(C) Had an annual throughput volume of over-the-water transfers of oil that did not exceed 3,000,000 gallons during the most recent preceding 12-month period.

~~(ad) “Spill” or “discharge”~~

~~(aa) “Spill,” “discharge,” or “oil spill” means a release of-at least one barrel (42 gallons) any amount of oil into marine waters of the state that is not authorized by a federal, state, or local government entity.~~

~~(ae) “California oil spill contingency plan” means the California oil spill contingency plan prepared pursuant to Article 3.5 (commencing with Section 8574.1) of Chapter 7.~~

~~(af)~~

(ab) “Tank barge” means a vessel that carries oil in commercial quantities as cargo but is not equipped with a means of self-propulsion.

~~(ag)~~

(ac) “Tank ship” means a self-propelled vessel that is constructed or adapted for the carriage of oil in bulk or in commercial quantities as cargo.

~~(ah)~~

(ad) “Tank vessel” means a tank ship or tank barge.

~~(ai)~~

(ae) “Vessel” means a watercraft or ship of any kind, including every structure adapted to be navigated from place to place for the transportation of merchandise or persons.

~~(aj)~~

1 (af) “Vessel carrying oil as secondary cargo” means a vessel
2 that does not carry oil as a primary cargo, but does carry oil ~~in~~
3 ~~bulk as cargo or cargo residue~~. *The administrator may establish*
4 *minimum oil volume amounts or other criteria by regulations.*

5 (ag) “Waters of the state” or “state waters” means any surface
6 water, including saline waters and marine waters, within the
7 boundaries of the state, but does not include groundwater.

8 ~~This section shall become operative on January 1, 2012.~~

9 SEC. 7. Section 8670.5 of the Government Code is amended
10 to read:

11 8670.5. The Governor shall ensure that the state fully and
12 adequately responds to all oil spills in ~~marine~~ waters of the state.
13 The administrator, acting at the direction of the Governor, shall
14 implement activities relating to oil spill response, including drills
15 and preparedness and oil spill containment and cleanup. The
16 administrator shall also represent the state in any coordinated
17 response efforts with the federal government.

18 SEC. 8. Section 8670.7 of the Government Code is amended
19 to read:

20 8670.7. (a) The administrator, subject to the Governor, has
21 the primary authority to direct prevention, removal, abatement,
22 response, containment, and cleanup efforts with regard to all
23 aspects of any oil spill in ~~the marine~~ waters of the state, in
24 accordance with any applicable ~~marine~~ facility or vessel
25 contingency plan and the California oil spill contingency plan. The
26 administrator shall cooperate with any federal on-scene coordinator,
27 as specified in the National Contingency Plan.

28 (b) The administrator shall implement the California oil spill
29 contingency plan, required pursuant to Section 8574.1, to the fullest
30 extent possible.

31 (c) The administrator shall do both of the following:

32 (1) Be present at the location of any oil spill of more than
33 100,000 gallons in ~~marine~~ waters of the state, as soon as possible
34 after notice of the discharge.

35 (2) Ensure that persons trained in oil spill response and cleanup,
36 whether employed by the responsible party, the state, or another
37 private or public person or entity, are onsite to respond to, contain,
38 and clean up any oil spill in ~~marine~~ waters of the state, as soon as
39 possible after notice of the discharge.

1 (d) Throughout the response and cleanup process, the
2 administrator shall apprise the air quality management district or
3 air pollution control district having jurisdiction over the area in
4 which the oil spill occurred and the local government entities that
5 are affected by the spill.

6 (e) The administrator, with the assistance, *as needed*, of the
7 *Office of the State Fire Marshal*, the State Lands Commission, *or*
8 *other state agency*, and the federal on-scene coordinator, shall
9 determine the cause and amount of the discharge.

10 (f) The administrator shall have the state authority over the use
11 of all response methods, including, but not limited to, in situ
12 burning, dispersants, and any oil spill cleanup agents in connection
13 with an oil discharge. The administrator shall consult with the
14 federal on-scene coordinator prior to exercising authority under
15 this subdivision.

16 (g) (1) The administrator shall conduct workshops, consistent
17 with the intent of this chapter, with the participation of appropriate
18 local, state, and federal agencies, including the State Air Resources
19 Board, air pollution control districts, and air quality management
20 districts, and affected private organizations, on the subject of oil
21 spill response technologies, including in situ burning. The
22 workshops shall review the latest research and findings regarding
23 the efficacy and toxicity of oil spill cleanup agents and other
24 technologies, their potential public health and safety and
25 environmental impacts, and any other relevant factors concerning
26 their use in oil spill response. In conducting these workshops, the
27 administrator shall solicit the views of all participating parties
28 concerning the use of these technologies, with particular attention
29 to any special considerations that apply to coastal areas and ~~marine~~
30 waters of the state.

31 (2) The administrator shall publish guidelines and conduct
32 periodic reviews of the policies, procedures, and parameters for
33 the use of in situ burning, which may be implemented in the event
34 of an oil spill.

35 (h) (1) The administrator shall ensure that, as part of the
36 response to any significant spill, biologists or other personnel are
37 present and provided any support and funding necessary and
38 appropriate for the assessment of damages to natural resources
39 and for the collection of data and other evidence that may help in
40 determining and recovering damages.

(2) (A) The administrator shall coordinate all actions required by state or local agencies to assess injury to, and provide full mitigation for injury to, or to restore, rehabilitate, or replace, natural resources, including wildlife, fisheries, wildlife or fisheries habitat, and beaches, and other coastal areas, that are damaged by an oil spill. For purposes of this subparagraph, “actions required by state or local agencies” include, but are not limited to, actions required by state trustees under Section 1006 of the Oil Pollution Act of 1990 (33 U.S.C. Sec. 2706) and actions required pursuant to Section 8670.61.5.

(B) The responsible party shall be liable for all coordination costs incurred by the administrator.

(3) This subdivision does not give the administrator any authority to administer state or local laws or to limit the authority of another state or local agency to implement and enforce state or local laws under its jurisdiction, nor does this subdivision limit the authority or duties of the administrator under this chapter or limit the authority of an agency to enforce existing permits or permit conditions.

(i) (1) The administrator shall enter into a memorandum of understanding with the executive director of the State Water Resources Control Board, acting for the State Water Resources Control Board and the California regional water quality control boards, and with the approval of the State Water Resources Control Board, to address discharges, other than dispersants, that are incidental to, or directly associated with, the response, containment, and cleanup of an existing or threatened oil spill conducted pursuant to this chapter.

(2) The memorandum of understanding entered into pursuant to paragraph (1) shall address any permits, requirements, or authorizations that are required for the specified discharges. The memorandum of understanding shall be consistent with requirements that protect state water quality and beneficial uses and with any applicable provisions of the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code) or the federal Clean Water Act (33 U.S.C. Sec. 1251 et seq.), and shall expedite efficient oil spill response.

~~(j) This section shall become effective on January 1, 2012.~~

SEC. 9. Section 8670.8 of the Government Code is amended to read:

1 8670.8. (a) The administrator shall carry out programs to
2 provide training for individuals in response, containment, and
3 cleanup operations and equipment, equipment deployment, and
4 the planning and management of these programs. These programs
5 may include training for members of the California Conservation
6 Corps, other response personnel employed by the state, personnel
7 employed by other public entities, personnel from marine facilities,
8 commercial fishermen and other mariners, and interested members
9 of the public. Training may be offered for volunteers.

10 (b) The administrator may offer training to anyone who is
11 required to take part in response and cleanup efforts under the
12 California oil spill contingency plan or under local government
13 contingency plans prepared and approved under this chapter.

14 (c) Upon request by a local government, the administrator shall
15 provide a program for training and certification of a local
16 emergency responder designated as a local spill response manager
17 by a local government with jurisdiction over or directly adjacent
18 to ~~marine~~ waters *of the state*.

19 (d) Trained and certified local spill response managers shall
20 participate in all drills upon request of the administrator.

21 (e) As part of the training and certification program, the
22 administrator shall authorize a local spill response manager to train
23 and certify volunteers.

24 (f) In the event of an oil spill, local spill response managers
25 trained and certified pursuant to subdivision (c) shall provide the
26 state onscene coordinator with timely information on activities
27 and resources deployed by local government in response to the oil
28 spill. The local spill response manager shall cooperate with the
29 administrator and respond in a manner consistent with the area
30 contingency plan to the extent possible.

31 (g) Funding for activities undertaken pursuant to subdivisions
32 (a) to (c), inclusive, shall be from the Oil Spill Prevention and
33 Administration Fund created pursuant to Section 8670.38.

34 (h) All training provided by the administrator shall follow the
35 requirements of applicable federal and state occupational safety
36 and health standards adopted by the Occupational Safety and
37 Health Administration of the Department of Labor and the
38 ~~California Occupational Safety~~, *Occupational Safety* and Health
39 Standards Board.

1 *SEC. 10. Section 8670.8.3 of the Government Code is amended*
2 *to read:*

3 8670.8.3. The administrator shall offer grants to a local
4 government with jurisdiction over or directly adjacent to ~~marine~~
5 waters of the state to provide oil spill response equipment to be
6 deployed by a local spill response manager certified pursuant to
7 Section 8670.8. The administrator shall request the Legislature to
8 appropriate funds from the Oil Spill Prevention and Administration
9 Fund created pursuant to Section 8670.38 for the purposes of this
10 section.

11 *SEC. 11. Section 8670.8.5 of the Government Code is amended*
12 *to read:*

13 8670.8.5. The administrator may use volunteer workers in
14 response, containment, restoration, wildlife rehabilitation, and
15 cleanup efforts for oil spills in ~~marine~~ waters of the state. The
16 volunteers shall be deemed employees of the state for the purpose
17 of workers' compensation under Article 2 (commencing with
18 Section 3350) of Chapter 2 of Part 1 of Division 4 of the Labor
19 Code. Any payments for workers' compensation pursuant to this
20 section shall be made from the Oil Spill Response Trust Fund
21 created pursuant to Section 8670.46.

22 *SEC. 12. Section 8670.9 of the Government Code is amended*
23 *to read:*

24 8670.9. (a) The administrator shall enter into discussions on
25 behalf of the state with the States of Alaska, Hawaii, Oregon, and
26 Washington, for the purpose of developing interstate agreements
27 regarding oil spill prevention and response. The agreements shall
28 address, including, but not limited to, all of the following:

- 29 (1) Coordination of vessel safety and traffic.
30 (2) Spill prevention equipment and response required on ~~tank~~
31 ~~ships and tank barges and at terminals~~ vessels and at facilities.
32 (3) The availability of oil spill response and cleanup equipment
33 and personnel.
34 (4) Other matters that may relate to the transport of oil and oil
35 spill prevention, response, and cleanup.

36 (b) The administrator shall coordinate the development of these
37 agreements with the Coast Guard, the Province of British Columbia
38 in Canada, and the Republic of Mexico.

39 *SEC. 13. Section 8670.12 of the Government Code is amended*
40 *to read:*

1 8670.12. (a) The administrator shall conduct studies and
2 evaluations necessary for improving oil spill response, containment,
3 and cleanup and oil spill wildlife rehabilitation in ~~marine~~ waters
4 ~~of the state~~ and ~~marine~~ oil transportation systems. The administrator
5 may expend moneys from the Oil Spill Prevention and
6 Administration Fund created pursuant to Section 8670.38, enter
7 into consultation agreements, and acquire necessary equipment
8 and services for the purpose of carrying out these studies and
9 evaluations.

10 (b) The administrator shall study the use and effects of
11 dispersants, incineration, bioremediation, and any other methods
12 used to respond to a spill. The study shall periodically be updated
13 to ensure the best achievable protection from the use of those
14 methods. Based upon substantial evidence in the record, the
15 administrator may determine in individual cases that best
16 achievable protection is provided by establishing requirements
17 ~~which~~ *that* provide the greatest degree of protection achievable
18 without imposing costs—~~which~~ *that* significantly outweigh the
19 incremental protection that would otherwise be provided. The
20 studies shall do all of the following:

21 (1) Evaluate the effectiveness of dispersants and other chemical
22 agents in oil spill response under varying environmental conditions.

23 (2) Evaluate potential adverse impacts on the environment and
24 public health including, but not limited to, adverse toxic impacts
25 on water quality, fisheries, and wildlife with consideration to
26 bioaccumulation and synergistic impacts, and the potential for
27 human exposure, including skin contact and consumption of
28 contaminated seafood.

29 (3) Recommend appropriate uses and limitations on the use of
30 dispersants and other chemical agents to ensure they are used only
31 in situations where the administrator determines they are effective
32 and safe.

33 (c) The administrator shall evaluate the feasibility of using
34 commercial fishermen and other mariners for oil spill containment
35 and cleanup. The study shall examine the following:

36 (1) Equipment and technology needs.

37 (2) Coordination with private response personnel.

38 (3) Liability and insurance.

39 (4) Compensation.

(d) The studies shall be performed in conjunction with any studies performed by federal, state, and international entities. The administrator may enter into contracts for the studies.

SEC. 14. Section 8670.14 of the Government Code is amended to read:

8670.14. The administrator shall coordinate the oil spill prevention and response programs and ~~marine~~ facility, tank vessel, and nontank vessel safety standards of the state with federal programs *as appropriate and* to the maximum extent possible.

SEC. 15. Section 8670.19 of the Government Code is amended to read:

8670.19. (a) The administrator shall periodically conduct a comprehensive review of all oil spill contingency plans. The administrator shall do both of the following:

(1) Segment the coast into appropriate areas as necessary.

(2) Evaluate the oil spill contingency plans for each area to determine if deficiencies exist in equipment, personnel, training, and any other area determined to be necessary, including those response resources properly authorized for cascading into the area, to ensure the best achievable protection of ~~the coastline, set forth in the California oil spill contingency plan, including the marine oil spill contingency planning section~~ *state waters from oil spills*.

(b) If the administrator finds that deficiencies exist, the administrator shall, by the process set forth in Section 8670.31, remand any oil spill contingency plans to the originating party with recommendations for amendments necessary to ensure that ~~the coastline is~~ *waters of the state* are protected.

SEC. 16. Section 8670.25 of the Government Code is amended to read:

8670.25. (a) A person who, without regard to intent or negligence, causes or permits any oil to be discharged in or on the ~~marine waters or inland~~ waters of the state shall immediately contain, clean up, and remove the oil in the most effective manner that minimizes environmental damage and in accordance with the applicable contingency plans, unless ordered otherwise by the Coast Guard or the administrator.

(b) If there is a spill, an owner or operator shall comply with the applicable oil spill contingency plan approved by the administrator.

1 SEC. 17. Section 8670.25.5 of the Government Code is
2 amended to read:

3 8670.25.5. (a) (1) Without regard to intent or negligence, any
4 party responsible for the discharge or threatened discharge of oil
5 in ~~marine~~ waters *of the state* shall report the discharge immediately
6 to the Office of Emergency Services pursuant to Section ~~25507~~
7 25510 of the Health and Safety Code.

8 (2) If the information initially reported pursuant to paragraph
9 (1) was inaccurate or incomplete, or if the quantity of oil discharged
10 has changed, any party responsible for the discharge or threatened
11 discharge of oil in ~~marine~~ waters *of the state* shall report the
12 updated information immediately to the Office of Emergency
13 Services pursuant to paragraph (1). The report shall contain the
14 accurate or complete information, or the revised quantity of oil
15 discharged.

16 (b) Immediately upon receiving notification pursuant to
17 subdivision (a), the Office of Emergency Services shall notify the
18 administrator, the State Lands Commission, the California Coastal
19 Commission, the California regional water quality control board
20 having jurisdiction over the location of the discharged oil, and the
21 appropriate local governmental agencies in the area surrounding
22 the discharged oil, and take the actions required by subdivision
23 (d) of Section 8589.7. If the spill has occurred within the
24 jurisdiction of the San Francisco Bay Conservation and
25 Development Commission, the Office of Emergency Services shall
26 notify that commission. Each public agency specified in this
27 subdivision shall adopt an internal protocol over communications
28 regarding the discharge of oil and file the internal protocol with
29 the Office of Emergency Services.

30 (c) The 24-hour emergency telephone number of the Office of
31 Emergency Services shall be posted at every *railroad dispatch*,
32 *pipeline operator control center*, *marine* terminal, at the area of
33 control of every marine facility, and on the bridge of every tankship
34 in marine waters.

35 ~~(d) This section does not apply to discharges, or potential~~
36 ~~discharges, of less than one barrel (42 gallons) of oil unless a more~~
37 ~~restrictive reporting standard is adopted in the California oil spill~~
38 ~~contingency plan prepared pursuant to Section 8574.1.~~

39 (e)

(d) Except as otherwise provided in this section and Section 8589.7, a notification made pursuant to this section shall satisfy any immediate notification requirement contained in any permit issued by a permitting agency.

SEC. 18. Section 8670.26 of the Government Code is amended to read:

8670.26. Any local or state agency responding to a spill of an oil spill shall notify the Office of Emergency Services, if notification as is required under Section 8670.25.5, Section 13272 of the Water Code, or any other notification procedure adopted in the California oil spill contingency plan has not occurred.

SEC. 19. Section 8670.28 of the Government Code is amended to read:

8670.28. (a) The administrator, taking into consideration the marine facility or vessel contingency plan requirements of the national and California contingency plans, the State Lands Commission, the State Fire Marshal, and the California Coastal Commission, and other state and federal agencies, shall adopt and implement regulations governing the adequacy of oil spill contingency plans to be prepared and implemented under this article. All regulations shall be developed in consultation with the Oil Spill Technical Advisory Committee, and shall be consistent with the California oil spill contingency plan and not in conflict with the National Contingency Plan. The regulations shall provide for the best achievable protection of coastal and marine waters and natural resources of the state. The regulations shall permit the development, application, and use of an oil spill contingency plan for similar vessels, pipelines, terminals, and facilities within a single company or organization, and across companies and organizations. The regulations shall, at a minimum, ensure all of the following:

(1) All areas of the marine state waters of the state are, at all times, protected by prevention, response, containment, and cleanup equipment and operations. For the purposes of this section, "marine waters" includes the waterways used for waterborne commercial vessel traffic to the Port of Stockton and the Port of Sacramento.

(2) Standards set for response, containment, and cleanup equipment and operations are maintained and regularly improved to protect the resources of the state.

1 (3) All appropriate personnel employed by operators required
2 to have a contingency plan receive training in oil spill response
3 and cleanup equipment usage and operations.

4 (4) Each oil spill contingency plan provides for appropriate
5 financial or contractual arrangements for all necessary equipment
6 and services, for the response, containment, and cleanup of a
7 reasonable worst case oil spill scenario for each ~~part of the coast~~
8 *area* the plan addresses.

9 (5) Each oil spill contingency plan demonstrates that all
10 protection measures are being taken to reduce the possibility of
11 an oil spill occurring as a result of the operation of the ~~marine~~
12 facility or vessel. The protection measures shall include, but not
13 be limited to, response to disabled vessels and an identification of
14 those measures taken to comply with requirements of Division 7.8
15 (commencing with Section 8750) of the Public Resources Code.

16 (6) Each oil spill contingency plan identifies the types of
17 equipment that can be used, the location of the equipment, and the
18 time taken to deliver the equipment.

19 (7) Each ~~marine~~ facility, *as determined by the administrator*,
20 conducts a hazard and operability study to identify the hazards
21 associated with the operation of the facility, including the use of
22 the facility by vessels, due to operating error, equipment failure,
23 and external events. For the hazards identified in the hazard and
24 operability studies, the facility shall conduct an offsite consequence
25 analysis which, for the most likely hazards, assumes pessimistic
26 water and air dispersion and other adverse environmental
27 conditions.

28 (8) Each oil spill contingency plan contains a list of contacts to
29 call in the event of a drill, threatened discharge of oil, or discharge
30 of oil.

31 (9) Each oil spill contingency plan identifies the measures to
32 be taken to protect the recreational and environmentally sensitive
33 areas that would be threatened by a reasonable worst case oil spill
34 scenario.

35 (10) Standards for determining a reasonable worst case oil spill.
36 *However, for a nontank vessel, the reasonable worst case is a spill*
37 *of the total volume of the largest fuel tank on the nontank vessel.*

38 ~~(11) Each oil spill contingency plan includes a timetable for~~
39 ~~implementing the plan.~~

40 (12)

(11) Each oil spill contingency plan specifies an agent for service of process. The agent shall be located in this state.

(b) The regulations and guidelines adopted pursuant to this section shall also include provisions to provide public review and comment on submitted oil spill contingency plans prior to approval.

(c) The regulations adopted pursuant to this section shall specifically address the types of equipment that will be necessary, the maximum time that will be allowed for deployment, the maximum distance to cooperating response entities, the amounts of dispersant, and the maximum time required for application, should the use of dispersants be approved. Upon a determination by the administrator that booming is appropriate at the site and necessary to provide best achievable protection, the regulations shall require that vessels engaged in lightering operations be boomed prior to the commencement of operations.

(d) The administrator shall adopt regulations and guidelines for oil spill contingency plans with regard to mobile transfer units, small marine fueling facilities, and vessels carrying oil as secondary cargo that acknowledge the reduced risk of damage from oil spills from those units, facilities, and vessels while maintaining the best achievable protection for the public health and safety and the environment.

(e) The regulations adopted pursuant to subdivision (d) shall be exempt from review by the Office of Administrative Law. Subsequent amendments and changes to the regulations shall not be exempt from Office of Administrative Law review.

~~(f) This section shall become effective on January 1, 2012.~~

SEC. 20. Section 8670.29 of the Government Code is amended to read:

8670.29. (a) In accordance with the rules, regulations, and policies established by the administrator pursuant to Section 8670.28, an owner or operator of a ~~marine~~ facility, small marine fueling facility, or mobile transfer unit, ~~prior to operating in the marine waters of the state or where an oil spill could impact marine waters; and~~ or an owner or operator of a tank vessel, nontank vessel, or vessel carrying oil as secondary cargo, ~~before while operating in the marine waters of the state or where a spill could impact waters of the state, shall prepare and implement~~ have an oil spill contingency plan that has been submitted to, and approved by, the administrator pursuant to Section 8670.31. An oil spill

1 contingency plan shall ensure the undertaking of prompt and
2 adequate response and removal action in case of ~~an oil~~ a spill, shall
3 be consistent with the California oil spill contingency plan, and
4 shall not conflict with the National Oil and Hazardous Substances
5 Pollution Contingency Plan (NCP).

6 (b) An oil spill contingency plan shall, at a minimum, meet all
7 of the following requirements:

8 (1) Be a written document, reviewed for feasibility and
9 executability, and signed by the owner or operator, or their
10 designee.

11 (2) Provide for the use of an incident command system to be
12 used during a spill.

13 (3) Provide procedures for reporting oil spills to local, state,
14 and federal agencies, and include a list of contacts to call in the
15 event of a drill, threatened spill, or spill.

16 (4) Describe the communication plans to be used during a spill,
17 *if different from those used by a recognized incident command*
18 *system.*

19 (5) Describe the strategies for the protection of environmentally
20 sensitive areas.

21 (6) Identify at least one rated OSRO for each rating level
22 established pursuant to Section 8670.30. Each identified rated
23 OSRO shall be directly responsible by contract, agreement, or
24 other approved means to provide oil spill response activities
25 pursuant to the oil spill contingency plan. A rated OSRO may
26 provide oil spill response activities individually, or in combination
27 with another rated OSRO, for a particular owner or operator.

28 (7) Identify a qualified individual.

29 (8) Provide the name, address, and telephone and facsimile
30 numbers for an agent for service of process, located within the
31 state and designated to receive legal documents on behalf of the
32 owner or operator.

33 (9) Provide for training and drills on elements of the plan at
34 least annually, with all elements of the plan subject to a drill at
35 least once every three years.

36 (c) An oil spill contingency plan for a vessel shall also include,
37 but is not limited to, all of the following requirements:

38 (1) The plan shall be submitted to the administrator at least
39 seven days prior to the vessel entering waters of the state.

(2) The plan shall provide evidence of compliance with the International Safety Management Code, established by the International Maritime Organization, as applicable.

(3) If the oil spill contingency plan is for a tank vessel, the plan shall include both of the following:

(A) The plan shall specify oil and petroleum cargo capacity.

(B) The plan shall specify the types of oil and petroleum cargo carried.

(4) If the oil spill contingency plan is for a nontank vessel, the plan shall include both of the following:

(A) The plan shall specify the type and total amount of fuel carried.

(B) The plan shall specify the capacity of the largest fuel tank.

(d) An oil spill contingency plan for a ~~marine~~ facility shall also include, but is not limited to, all of the following provisions, *as appropriate*:

(1) Provisions for site security and control.

(2) Provisions for emergency medical treatment and first aid.

(3) Provisions for safety training, as required by state and federal safety laws for all personnel likely to be engaged in oil spill response.

(4) Provisions detailing site layout and locations of environmentally sensitive areas requiring special protection.

(5) Provisions for vessels that are in the operational control of the facility for loading and unloading.

(e) Unless in conflict with federal law or regulations, an oil spill contingency plan for a railroad shall also include, but is not limited to, all of the following:

(1) A list of the types of train cars that may make-up the consist.

(2) A list of the types of oil and petroleum products that may be transported.

(3) A map of track routes and facilities.

(4) A list, description, and map of any prestaged spill response equipment and personnel for deployment of the equipment.

~~(e)~~

(f) The oil spill contingency plan shall be available to response personnel and to relevant state and federal agencies for inspection and review.

~~(f)~~

1 (g) The oil spill contingency plan shall be reviewed periodically
2 and updated as necessary. All updates shall be submitted to the
3 administrator pursuant to this article.

4 ~~(g)~~

5 (h) In addition to the regulations adopted pursuant to Section
6 8670.28, the administrator shall adopt regulations and guidelines
7 to implement this section. The regulations and guidelines shall
8 provide for the best achievable protection of ~~coastal and marine~~
9 *waters and natural resources of the state*. The administrator may
10 establish additional oil spill contingency plan requirements,
11 including, but not limited to, requirements based on the different
12 geographic regions of the state. All regulations and guidelines shall
13 be developed in consultation with the Oil Spill Technical Advisory
14 Committee.

15 ~~(h) This section shall become operative on January 1, 2012.~~

16 (i) *Notwithstanding subdivision (a) and paragraph (6) of*
17 *subdivision (b), a vessel or facility operating where a spill could*
18 *impact state waters that are not tidally influenced does not have*
19 *to identify a rated OSRO in the contingency plan until January 1,*
20 *2016.*

21 *SEC. 21. Section 8670.30.5 of the Government Code is*
22 *amended to read:*

23 8670.30.5. (a) The administrator may review each oil spill
24 contingency plan that has been approved pursuant to Section
25 8670.29 to determine whether it complies with Sections 8670.28
26 and 8670.29.

27 (b) If the administrator finds the approved oil spill contingency
28 plan is deficient, the plan shall be returned to the operator with
29 written reasons why the approved plan was found inadequate and,
30 if practicable, suggested modifications or alternatives. The operator
31 shall submit a new or modified plan within ~~90~~ 30 days that
32 responds to the deficiencies identified by the administrator.

33 *SEC. 22. Section 8670.31 of the Government Code is amended*
34 *to read:*

35 8670.31. (a) Each oil spill contingency plan required under
36 this article shall be submitted to the administrator ~~before a tank~~
37 ~~vessel, nontank vessel, or vessel carrying oil as secondary cargo~~
38 ~~operates in the marine waters of the state, or before a marine~~
39 ~~facility, small marine fueling facility, or mobile transfer unit,~~

operates in the marine waters of the state or where an oil spill therefrom could impact marine waters for review and approval.

(b) The administrator shall review each submitted contingency plan to determine whether it complies with the administrator's rules, policies, and regulations adopted pursuant to Section 8670.28 and 8670.29. *The administrator may issue a preliminary approval pending final approval or disapproval.*

(c) Each contingency plan submitted shall be approved or disapproved within ~~480~~ 30 days after receipt by the administrator. The administrator may approve or disapprove portions of a plan. A plan is not deemed approved until all portions are approved pursuant to this section. The disapproved portion shall be subject to the procedures contained in subdivision (d).

(d) If the administrator finds the submitted contingency plan is inadequate under the rules, policies, and regulations of the administrator, the plan shall be returned to the submitter with written reasons why the plan was found inadequate and, if practicable, suggested modifications or alternatives, if appropriate. The submitter shall submit a new or modified plan within ~~90~~ 30 days after the earlier plan was returned, responding to the findings and incorporating any suggested modifications. The resubmittal shall be treated as a new submittal and processed according to the provisions of this section, except that the resubmitted plan shall be deemed approved unless the administrator acts pursuant to subdivision (c). ~~Failure to gain approval after the second submission may be determined by the administrator to be a violation of this chapter.~~

(e) The administrator may make inspections and require drills of any oil spill contingency plan that is submitted.

(f) After the plan has been approved, it shall be resubmitted every five years thereafter. The administrator may require earlier or more frequent resubmission, if warranted. Circumstances that would require an earlier resubmission include, but are not limited to, changes in regulations, new oil spill response technologies, deficiencies identified in the evaluation conducted pursuant to Section 8670.19, or a need for a different oil spill response because of increased need to protect endangered species habitat. The administrator may deny approval of the resubmitted plan if it is no longer considered adequate according to the adopted rules,

1 regulations, and policies of the administrator at the time of
2 resubmission.

3 (g) ~~(4)~~ Each *owner or operator* of a tank vessel, *nontank* vessel
4 carrying oil as a secondary cargo, or ~~marine~~ facility who is required
5 to file an oil spill response plan or update pursuant to provisions
6 of federal law regulating ~~marine~~ oil spill response plans shall, *upon*
7 *request of the administrator*, for informational purposes only,
8 submit a copy of that plan or update to the administrator at the
9 time that it is approved by the relevant federal agency.

10 (2) ~~A tank vessel, vessel carrying oil as a secondary cargo, or~~
11 ~~marine facility operator is not required to submit a copy of the~~
12 ~~response plan or update specified in paragraph (1) to the~~
13 ~~administrator if either the vessel or facility is exempt from having~~
14 ~~to file a response plan with the state, or if the content of the plan~~
15 ~~submitted by the operator pursuant to Section 8670.29 is~~
16 ~~substantially the same as the federal response plan or update.~~

17 SEC. 23. *Section 8670.32 of the Government Code is amended*
18 *to read:*

19 8670.32. (a) To reduce the risk of an oil spill as a result of
20 fuel, cargo, and lube oil transfers, the administrator shall develop
21 and implement a screening mechanism and a comprehensive
22 risk-based monitoring program for inspecting the bunkering and
23 lightering operations of vessels at anchor and alongside a dock.
24 This program shall identify those bunkering and lightering
25 operations that pose the highest risk of a pollution incident.

26 (b) The administrator shall ensure that all bunkering and
27 lightering operations that, pursuant to subdivision (a), pose the
28 highest risk of a pollution incident are routinely monitored and
29 inspected. The administrator shall coordinate the monitoring and
30 inspection program with the United States Coast Guard.

31 (c) The administrator shall establish regulations to provide for
32 the best achievable protection during bunkering and lightering
33 operations ~~in the marine environment~~.

34 ~~(d) This section shall remain in effect only until January 1, 2015,~~
35 ~~and as of that date is repealed, unless a later enacted statute, that~~
36 ~~is enacted before January 1, 2015, deletes or extends that date.~~

37 SEC. 24. *Section 8670.32.5 is added to the Government Code,*
38 *to read:*

39 8670.32.5. (a) *To reduce the risk of an oil spill as a result of*
40 *fuel, cargo, and lube oil transfers during nonvessel transport, the*

1 administrator shall develop and implement a screening mechanism
2 and comprehensive risk-based monitoring program for inspecting
3 nonvessel handling and transport of oil. This program shall identify
4 those operations that pose the highest risk of a pollution incident.

5 (b) Pursuant to subdivision (a), the administrator shall ensure
6 that those operations that pose the highest risk of a pollution
7 incident are routinely monitored and inspected. The administrator
8 shall coordinate the monitoring and inspection program with the
9 appropriate regulators, and shall establish regulations to provide
10 the best achievable protection for spills associated with these
11 operations.

12 SEC. 25. Section 8670.33 of the Government Code is amended
13 to read:

14 8670.33. (a) If the operator of a tank ship or tank barge for
15 which a contingency plan has not been approved desires to have
16 the tank ship or tank barge enter ~~marine~~ waters of the state, the
17 administrator may give approval by telephone or facsimile machine
18 for the entry of the tank ship or tank barge into ~~marine~~ waters of
19 the state under an approved contingency plan applicable to a
20 terminal or tank ship, if all of the following are met:

21 (1) The terminal or tank ship is the destination of the tank ship
22 or tank barge.

23 (2) The operator of the terminal or the tank ship provides the
24 administrator advance written assurance that the operator assumes
25 all responsibility for the operations of the tank ship or tank barge
26 while it is in ~~marine~~ waters of the state traveling to or from the
27 terminal. The assurance may be delivered by hand or by mail or
28 may be sent by facsimile machine, followed by delivery of the
29 original.

30 (3) The approved terminal or tank ship contingency plan
31 includes all conditions the administrator requires for the operations
32 of tank ship or tank barges traveling to and from the terminal.

33 (4) The tank ship or tank barge and its operations meet all
34 requirements of the contingency plan for the tank ship or terminal
35 that is the destination of the tank ship or tank barge.

36 (5) The tank ship or tank barge without an approved contingency
37 plan has not entered ~~marine~~ waters of the state more than once in
38 the 12-month period preceding the request made under this section.

39 (b) At all times that a tank ship or tank barge is in ~~marine~~ waters
40 of the state pursuant to subdivision (a), its operators and all their

1 agents and employees shall operate the vessel in accordance with
2 the applicable operations manual or, if there is an oil spill, in
3 accordance with the directions of the administrator and the
4 applicable contingency plan.

5 *SEC. 26. Section 8670.34 of the Government Code is amended*
6 *to read:*

7 8670.34. This article shall not apply to any tank vessel, nontank
8 vessel, or vessel carrying oil as a secondary cargo that enters
9 ~~marine~~ waters of the state because of imminent danger to the lives
10 of crew members or if entering ~~marine~~ waters of the state will
11 substantially aid in preventing an oil spill or other harm to public
12 safety or the environment, if the operators of the tank vessel,
13 nontank vessel, or vessel carrying oil as a secondary cargo comply
14 with all of the following:

15 (a) The operators or crew of the tank vessel, nontank vessel, or
16 vessel carrying oil as a secondary cargo ~~complies~~ *comply* at all
17 times with all orders and directions given by the administrator, or
18 his or her designee, while the tank vessel, nontank vessel, or vessel
19 carrying oil as a secondary cargo is in ~~marine~~ waters of the state,
20 unless the orders or directions are contradicted by orders or
21 directions of the Coast Guard.

22 (b) Except for fuel, oil may be transferred to or from the tank
23 vessel, nontank vessel, or vessel carrying oil as a secondary cargo
24 while it is in ~~marine~~ waters of the state only if permission is
25 obtained for the transfer of oil and one of the following conditions
26 is met:

27 (1) The transfer is necessary for the safety of the crew.

28 (2) The transfer is necessary to prevent harm to public safety
29 or the environment.

30 (3) An oil spill contingency plan is approved or made applicable
31 to the tank vessel, nontank vessel, or vessel carrying oil as a
32 secondary cargo, under subdivision (c).

33 (c) The tank vessel, nontank vessel, or vessel carrying oil as a
34 secondary cargo shall leave the ~~marine~~ waters of the state as soon
35 as it may do so without imminent risk of harm to the crew, public
36 safety, or the environment, unless an oil spill contingency plan is
37 approved or made applicable to it under this article.

38 *SEC. 27. Section 8670.35 of the Government Code is amended*
39 *to read:*

1 8670.35. (a) The administrator, taking into consideration the
2 California oil spill contingency plan, shall promulgate regulations
3 regarding the adequacy of oil spill ~~contingency plan~~ elements of
4 ~~business and hazardous materials~~ area plans required pursuant to
5 Section 25503 of the Health and Safety Code. In developing the
6 ~~guidelines, regulations~~, the administrator shall consult with the
7 Oil Spill Technical Advisory Committee.

8 (b) ~~Any local government~~ *The administrator may offer, to a*
9 *unified program agency* with jurisdiction over or directly adjacent
10 to ~~marine waters may apply for of the state~~, a grant to complete,
11 update, or revise an oil spill ~~contingency plan~~ *element of the area*
12 *plan*.

13 (c) ~~Each contingency plan oil spill~~ element established under
14 this section shall include provisions for training fire and police
15 personnel in oil spill response and cleanup equipment use and
16 operations.

17 (d) ~~Each contingency plan oil spill~~ element prepared under this
18 section shall be consistent with the local government's local coastal
19 program as certified under Section 30500 of the Public Resources
20 Code, the California oil spill contingency plan, and the National
21 Contingency Plan.

22 (e) ~~The~~ *If a grant is awarded, the* administrator shall review
23 and approve each ~~contingency plan oil spill~~ element established
24 pursuant to this section. If, upon review, the administrator
25 determines that the ~~contingency plan oil spill~~ element is inadequate,
26 the administrator shall return it to the agency that prepared it,
27 specifying the nature and extent of the inadequacies, and, if
28 practicable, suggesting modifications. ~~The local government unified~~
29 *program agency* shall submit a new or modified ~~plan element~~
30 within 90 days after the ~~plan element~~ was returned, responding to
31 the findings and incorporating any suggested modifications.

32 (f) The administrator shall *periodically* review the preparedness
33 of ~~local governments unified program agencies~~ to determine
34 whether a program of grants for completing oil spill ~~contingency~~
35 ~~plan~~ elements is desirable and should be continued. If the
36 administrator determines that local government preparedness
37 should be improved, the administrator shall request the Legislature
38 to appropriate funds from the Oil Spill Prevention and
39 Administration Fund for the purposes of this section. *Beginning*
40 *January 1, 2015, the administrator shall perform this review no*

1 *less often than every five years and the administrator's*
2 *determination shall be reported to the Legislature, consistent with*
3 *Section 9795, and made public.*

4 ~~(g) This section shall become operative on January 1, 2012.~~

5 SEC. 28. *Section 8670.36 of the Government Code is amended*
6 *to read:*

7 8670.36. ~~(a)~~ The administrator shall, within five working days
8 after receipt of a contingency plan prepared pursuant to Section
9 8670.28 or 8670.35, ~~send post~~ a notice that the plan is available
10 for review ~~to the Oil Spill Technical Advisory Committee~~. The
11 administrator shall send a copy of the plan within two working
12 days after receiving a request from the Oil Spill Technical Advisory
13 Committee. The State Lands Commission and the California
14 Coastal Commission shall review the plans for facilities or local
15 governments within the coastal zone. The San Francisco Bay
16 Conservation and Development Commission shall review the plans
17 for ~~marine~~ facilities or local governments within the area described
18 in Sections 66610 and 29101 of the Public Resources Code. Any
19 state agency or committee that comments shall submit its comments
20 to the administrator within ~~60~~ 15 days of receipt of the plan. The
21 administrator shall consider all ~~comments in approving or~~
22 ~~disapproving the plan.~~ *comments.*

23 ~~(b) This section shall become operative on January 1, 2012.~~

24 SEC. 29. *Section 8670.37 of the Government Code is amended*
25 *to read:*

26 8670.37. (a) The administrator, with the assistance of the State
27 Lands Commission, the California Coastal Commission, ~~and~~ the
28 executive director of the San Francisco Bay Conservation and
29 Development Commission, *or other appropriate agency*, shall
30 carry out studies with regard to improvements to contingency
31 planning and oil spill response equipment and operations.

32 (b) To the greatest extent possible, these studies shall be
33 coordinated with studies being done by the federal government,
34 and other appropriate state and international entities, and
35 duplication with the efforts of other entities shall be minimized.

36 (c) The administrator, the State Lands Commission, the
37 California Coastal Commission, and the Executive Director of the
38 San Francisco Bay Conservation and Development Commission,
39 *or other appropriate agency*, may be reimbursed for all costs

1 incurred in carrying out the studies under this section from the Oil
2 Spill Prevention and Administration Fund.

3 *SEC. 30. Section 8670.37.5 of the Government Code is*
4 *amended to read:*

5 8670.37.5. (a) The administrator shall establish a network of
6 rescue and rehabilitation stations for ~~sea birds~~, *wildlife injured by*
7 *oil spills, including sea otters, otters* and other marine mammals.
8 In addition to rehabilitative care, the primary focus of the Oiled
9 Wildlife Care Network shall include proactive oiled wildlife search
10 and collection rescue efforts. These facilities shall be established
11 and maintained in a state of preparedness to provide the best
12 achievable treatment for ~~marine wildlife~~, mammals and birds
13 affected by an oil spill in ~~marine~~ *waters of the state*. The
14 administrator shall consider all feasible management alternatives
15 for operation of the network.

16 (b) (1) The first rescue and rehabilitation station established
17 pursuant to this section shall be located within the sea otter range
18 on the central coast. The administrator shall establish regional
19 oiled wildlife rescue and rehabilitation facilities in the Los Angeles
20 Harbor area, the San Francisco Bay area, the San Diego area, the
21 Monterey Bay area, the Humboldt County area, and the Santa
22 Barbara area, and may establish those facilities in other ~~coastal~~
23 areas of the state as the administrator determines to be necessary.
24 One or more of the oiled wildlife rescue and rehabilitation stations
25 shall be open to the public for educational purposes and shall be
26 available for marine wildlife health research. Wherever possible
27 in the establishment of these facilities, the administrator shall
28 improve existing authorized ~~marine~~ mammal rehabilitation facilities
29 and may expand or take advantage of existing educational or
30 scientific programs and institutions for oiled wildlife rehabilitation
31 purposes. Expenditures shall be reviewed by the agencies and
32 organizations specified in subdivision (c).

33 (2) *The administrator may also establish additional stations*
34 *or facilities in the interior of the state primarily for the rescue and*
35 *rehabilitation of wildlife affected by inland spills.*

36 (c) The administrator shall consult with the United States Fish
37 and Wildlife Service, the National Marine Fisheries Service, the
38 California Coastal Commission, the Executive Director of the San
39 Francisco Bay Conservation and Development Commission, the
40 Marine Mammal Center, and the International Bird Rescue Center

1 in the design, planning, construction, and operation of the rescue
2 and rehabilitation stations. All proposals for the rescue and
3 rehabilitation stations shall be presented before a public hearing
4 prior to the construction and operation of any rehabilitation station,
5 and, upon completion of the coastal protection element of the
6 California oil spill contingency plan, shall be consistent with the
7 coastal protection element.

8 (d) The administrator may enter into agreements with nonprofit
9 organizations to establish and equip wildlife rescue and
10 rehabilitation stations and to ensure that they are operated in a
11 professional manner in keeping with the pertinent guidance
12 documents issued by the ~~Office of Spill Prevention and Response~~
13 ~~in the Department of Fish and Game~~ administrator. The
14 implementation of the agreement shall not constitute a California
15 public works project. The agreement shall be deemed a contract
16 for wildlife rehabilitation as authorized by Section 8670.61.5.

17 (e) In the event of a spill, the responsible party may request that
18 the administrator perform the rescue and rehabilitation of oiled
19 wildlife required of the responsible party pursuant to this chapter
20 if the responsible party and the administrator enter into an
21 agreement for the reimbursement of the administrator's costs
22 incurred in taking the requested action. If the administrator
23 performs the rescue and rehabilitation of oiled wildlife, the
24 administrator shall primarily utilize the network of rescue and
25 rehabilitation stations established pursuant to subdivision (a),
26 unless more immediate care is required. Any of those activities
27 conducted pursuant to this section or Section 8670.56.5 or
28 8670.61.5 shall be performed under the direction of the
29 administrator. This subdivision does not remove the responsible
30 party from liability for the costs of, nor the responsibility for, the
31 rescue and rehabilitation of oiled wildlife, as established by this
32 chapter. This subdivision does not prohibit an owner or operator
33 from retaining, in a contingency plan prepared pursuant to this
34 article, wildlife rescue and rehabilitation services different from
35 the rescue and rehabilitation stations established pursuant to this
36 section.

37 (f) (1) The administrator shall appoint a rescue and
38 rehabilitation advisory board to advise the administrator regarding
39 operation of the network of rescue and rehabilitation stations
40 established pursuant to subdivision (a), including the economic

1 operation and maintenance of the network. For the purpose of
2 assisting the administrator in determining what constitutes the best
3 achievable treatment for oiled wildlife, the advisory board shall
4 provide recommendations to the administrator on the care achieved
5 by current standard treatment methods, new or alternative treatment
6 methods, the costs of treatment methods, and any other information
7 that the advisory board believes that the administrator might find
8 useful in making that determination. The administrator shall consult
9 with the advisory board in preparing the administrator's submission
10 to the Legislature pursuant to ~~subparagraph (A) of paragraph (2)~~
11 ~~of subdivision (d) of Section 8670.48~~ *subdivision (a) of Section*
12 *8670.40.5*. The administrator shall present the recommendations
13 of the advisory board to the Oil Spill Technical Advisory
14 Committee created pursuant to Article 8 (commencing with Section
15 8670.54), upon the request of the committee.

16 (2) The advisory board shall consist of a balance between
17 representatives of the oil industry, wildlife rehabilitation
18 organizations, and academia. One academic representative shall
19 be from a veterinary school within this state. The United States
20 Fish and Wildlife Service and the National Marine Fisheries
21 Service shall be requested to participate as ex officio members.

22 (3) (A) The Legislature hereby finds and declares that since
23 the administrator may rely on the expertise provided by the
24 volunteer members of the advisory board and may be guided by
25 their recommendations in making decisions that relate to the
26 operation of the network of rescue and rehabilitation stations, those
27 members should be entitled to the same immunity from liability
28 that is provided other public employees.

29 (B) Members of the advisory board, while performing functions
30 within the scope of advisory board duties, shall be entitled to the
31 same rights and immunities granted public employees by Article
32 3 (commencing with Section 820) of Chapter 1 of Part 2 of
33 Division 3.6 of Title 1. Those rights and immunities are deemed
34 to have attached, and shall attach, as of the date of appointment
35 of the member to the advisory board.

36 (g) The administrator shall ensure the state's ability to prevent
37 the contamination of wildlife and to identify, collect, rescue, and
38 treat oiled wildlife through all of the following:

39 (1) Providing for the recruitment and training of an adequate
40 network of wildlife specialists and volunteers from Oiled Wildlife

1 Care Network participant organizations who can be called into
2 immediate action in the event of an oil spill to assist in the field
3 with collection of live oiled wildlife. The training shall include a
4 process for certification of trained volunteers and renewal of
5 certifications. The initial wildlife rescue training shall include field
6 experience in species identification and appropriate field collection
7 techniques for species at risk in different spills. In addition to
8 training in wildlife rescue, the administrator shall provide for
9 appropriate hazardous materials training for new volunteers and
10 contract personnel, with refresher courses offered as necessary to
11 allow for continual readiness of search and collection teams. ~~The~~
12 ~~Office of Spill Prevention and Response in the Department of Fish~~
13 ~~and Game is not required~~ *Moneys in the Oil Spill Prevention and*
14 *Administration Fund shall not be used* to reimburse volunteers for
15 time or travel associated with required wildlife rescue or hazardous
16 materials training.

17 (2) Developing and implementing a plan for the provision of
18 emergency equipment for wildlife rescue in strategic locations to
19 facilitate ready deployment in the case of an oil spill. The
20 administrator shall ensure that the equipment identified as
21 necessary in his or her wildlife response plan is available and
22 deployed in a timely manner to assist in providing the best
23 achievable protection and collection efforts.

24 (3) Developing the capacity of the Oiled Wildlife Care Network
25 to recruit and train an adequate field team for collection of live
26 oiled wildlife, as specified in paragraph (1), by providing staffing
27 for field operations, coordination, and volunteer outreach for the
28 Oiled Wildlife Care Network. The duties of the field operations
29 and volunteer outreach staff shall include recruitment and
30 coordination of additional participation in the Oiled Wildlife Care
31 Network by other existing organizations with experience and
32 expertise in wildlife rescue and handling, including scientific
33 organizations, educational institutions, public agencies, and
34 nonprofit organizations dedicated to wildlife conservation, and
35 recruitment, training, and supervision of volunteers from Oiled
36 Wildlife Care Network participating organizations.

37 (4) Ensuring that qualified persons with experience and expertise
38 in wildlife rescue are assigned to oversee and supervise wildlife
39 recovery search and collection efforts, as specified in the
40 administrator's wildlife response plan. The administrator shall

1 provide for and ensure that all persons involved in field collection
2 of oiled wildlife receive training in search and capture techniques
3 and hazardous materials certification, as appropriate.

4 *SEC. 31. Section 8670.37.51 of the Government Code is*
5 *amended to read:*

6 8670.37.51. (a) ~~No~~A tank vessel or vessel carrying oil as a
7 secondary cargo ~~may~~ *shall not* be used to transport oil across
8 ~~marine~~ waters of the state unless the *owner or* operator has *applied*
9 *for and* obtained a certificate of financial responsibility issued by
10 the administrator for that vessel or for the owner of all of the oil
11 contained in and to be transferred to or from that vessel.

12 (b) ~~No~~An operator of a marine terminal within the state ~~may~~
13 *shall not* transfer oil to or from a tank vessel or vessel carrying oil
14 as a secondary cargo unless the operator of the marine terminal
15 has received a copy of a certificate of financial responsibility issued
16 by the administrator for the operator of that vessel or for all of the
17 oil contained in and to be transferred to or from that vessel.

18 (c) ~~No~~An operator of a marine terminal within the state ~~may~~
19 *shall not* transfer oil to or from any vessel that is or is intended to
20 be used for transporting oil as cargo to or from a second vessel
21 unless the operator of the marine terminal has first received a copy
22 of a certificate of financial responsibility issued by the
23 administrator for the person responsible for both the first and
24 second vessels or all of the oil contained in both vessels, as well
25 as all the oil to be transferred to or from both vessels.

26 (d) ~~No~~A person ~~may~~ *shall not* operate a ~~marine~~ facility unless
27 the owner or operator of the ~~marine~~ facility has first obtained a
28 certificate of financial responsibility from the administrator for
29 the ~~marine~~ facility.

30 (e) ~~No tank vessel or vessel carrying oil as a secondary cargo~~
31 ~~may be used to transport oil across marine waters of the state~~
32 ~~unless, at least 24 hours prior to the transport, the administrator~~
33 ~~has received both of the following:~~

34 (1) ~~A copy of a certificate applicable to that vessel or to all of~~
35 ~~the oil in that vessel at all times during transport.~~

36 (2) ~~A copy of a written statement by the holder of the applicable~~
37 ~~certificate authorizing its application to the vessel.~~

38 *SEC. 32. Section 8670.37.52 of the Government Code is*
39 *amended to read:*

1 8670.37.52. The certificate of financial responsibility shall be
2 conclusive evidence that the person or entity holding the certificate
3 is the party responsible for the specified vessel, ~~marine~~ facility, or
4 oil for purposes of determining liability pursuant to this chapter.

5 ~~SEC. 2.~~

6 *SEC. 33.* Section 8670.37.53 of the Government Code is
7 amended to read:

8 8670.37.53. (a) To receive a certificate of financial
9 responsibility for a tank vessel or for all of the oil contained within
10 the tank vessel, the applicant shall demonstrate to the satisfaction
11 of the administrator the financial ability to pay at least one billion
12 dollars (\$1,000,000,000) for any damages that may arise during
13 the term of the certificate.

14 (b) The administrator may establish a lower standard of financial
15 responsibility for small tank barges, vessels carrying oil as a
16 secondary cargo, and small marine fueling facilities. The standard
17 shall be based on the quantity of oil that can be carried or stored
18 and the risk of spill into ~~marine~~ waters *of the state*. The
19 administrator shall not set a standard that is less than the expected
20 costs from a reasonable worst case oil spill into ~~marine~~ waters *of*
21 *the state*.

22 (c) (1) To receive a certificate of financial responsibility for a
23 ~~marine~~ facility, the applicant shall demonstrate to the satisfaction
24 of the administrator the financial ability to pay for any damages
25 that might arise during a reasonable worst case oil spill into ~~marine~~
26 waters *of the state* that results from the operations of the ~~marine~~
27 facility. The administrator shall consider criteria including, but
28 not necessarily limited to, the amount of oil that could be spilled
29 into ~~marine~~ waters *of the state* from the facility, the cost of cleaning
30 up spilled oil, the frequency of operations at the facility, and the
31 damages that could result from a spill.

32 ~~(2) The administrator may issue a certificate for a marine facility~~
33 ~~upon a lesser showing of financial resources for a period of not~~
34 ~~longer than two years if the administrator finds all of the following:~~

35 ~~(A) The marine facility was operating on January 1, 1991.~~

36 ~~(B) Continued operation is necessary to finance abandonment~~
37 ~~of the marine facility.~~

38 ~~(C) The financial resources the operator is able to demonstrate~~
39 ~~are reasonably sufficient to cover the damages from foreseeable~~
40 ~~spills from the facility.~~

1 (2) *The administrator shall adopt regulations to implement this*
2 *section.*

3 *SEC. 34. Section 8670.37.55 of the Government Code is*
4 *amended to read:*

5 8670.37.55. (a) An owner or operator of more than one tank
6 vessel, vessel carrying oil as a secondary cargo, nontank vessel,
7 or ~~marine~~ facility shall only be required to obtain one certificate
8 of financial responsibility for all of those vessels and ~~marine~~
9 facilities owned or operated.

10 (b) If a person holds a certificate for more than one tank vessel,
11 vessel carrying oil as a secondary cargo, nontank vessel, or ~~marine~~
12 facility and a spill or spills occurs from one or more of those
13 vessels or ~~marine~~ facilities for which the owner or operator may
14 be liable for damages in an amount exceeding 5 percent of the
15 financial resources reflected by the certificate, as determined by
16 the administrator, the certificate shall immediately be considered
17 inapplicable to any vessel or ~~marine~~ facility not associated with
18 the spill. In that event, the owner or operator shall demonstrate to
19 the satisfaction of the administrator the amount of financial ability
20 required pursuant to this article, as well as the financial ability to
21 pay all damages that arise or have arisen from the spill or spills
22 ~~which~~ *that* have occurred.

23 *SEC. 35. Section 8670.37.58 of the Government Code is*
24 *amended to read:*

25 8670.37.58. (a) A nontank vessel ~~required to have a~~
26 ~~contingency plan pursuant to this chapter~~ shall not enter ~~marine~~
27 waters of the state unless the nontank vessel owner or operator has
28 provided to the administrator evidence of financial responsibility
29 that demonstrates, to the administrator's satisfaction, the ability
30 to pay at least three hundred million dollars (\$300,000,000) to
31 cover damages caused by a spill, and the owner or operator of the
32 nontank vessel has obtained a certificate of financial responsibility
33 from the administrator for the nontank vessel.

34 (b) Notwithstanding subdivision (a), the administrator may
35 establish a lower standard of financial responsibility for a nontank
36 vessel that has a carrying capacity of 6,500 barrels of oil or less,
37 or for a nontank vessel that is owned and operated by California
38 or a federal agency and has a carrying capacity of 7,500 barrels of
39 oil or less. The standard shall be based upon the quantity of oil
40 that can be carried by the nontank vessel and the risk of an oil spill

1 into ~~marine~~ waters *of the state*. The administrator shall not set a
2 standard that is less than the expected cleanup costs and damages
3 from an oil spill into ~~marine~~ waters *of the state*.

4 (c) The administrator may adopt regulations to implement this
5 section.

6 SEC. 36. *Section 8670.40 of the Government Code is amended*
7 *to read:*

8 8670.40. (a) The State Board of Equalization shall collect a
9 fee in an amount *annually* determined by the administrator to be
10 sufficient *to pay the reasonable regulatory costs* to carry out the
11 purposes set forth in subdivision (e), and a reasonable reserve for
12 contingencies. The annual assessment *for the year beginning*
13 *January 1, 2015, and ending December 1, 2015*, shall not exceed
14 six and one-half cents (\$0.065) per barrel of crude oil or petroleum
15 products. ~~Beginning January 1, 2015, the annual assessment shall~~
16 ~~not exceed five cents (\$0.05) per barrel of crude oil or petroleum~~
17 ~~products.~~

18 (b) (1) The oil spill prevention and administration fee shall be
19 *based on each barrel of crude oil or petroleum products received*
20 *at a marine terminal, and shall be* imposed upon a person owning
21 crude oil at the time that crude oil is received at a marine terminal
22 *by any mode of delivery*, from within or outside the state, and upon
23 a person who owns petroleum products at the time that those
24 petroleum products are received at a marine terminal, *by any mode*
25 *of delivery*, from outside this state. The fee shall be collected by
26 the marine terminal operator from the owner of the crude oil or
27 petroleum products ~~based on each barrel of crude oil or petroleum~~
28 ~~products so received by means of a vessel operating in, through,~~
29 ~~or across the marine waters of the state. In addition, an operator.~~
30 ~~products.~~

31 (2) *An operator* of a pipeline shall pay the oil spill prevention
32 and administration fee for each barrel of crude oil originating from
33 a production facility in ~~marine~~ waters *of the state* and transported
34 in the state by means of a pipeline operating across, under, or
35 through the ~~marine~~ waters of the state. ~~The~~

36 (3) *The oil spill prevention and administration fee shall be*
37 *imposed upon a person owning crude oil at the time the crude oil*
38 *is received at a refinery within the state by any method of transport,*
39 *whether from within or outside the state. The refinery shall collect*
40 *the fee from the owner of the crude oil, for each barrel received.*

(4) *The fees shall be remitted to the board by the owner of the oil, the refinery, the terminal, or pipeline operator on the 25th day of the month based upon the number of barrels of crude oil or petroleum products received at a refinery or marine terminal, or transported by pipeline, during the preceding month. A fee shall not be imposed pursuant to this section with respect to crude oil or petroleum products if the person who would be liable for that fee, or responsible for its collection, establishes that the fee has been collected by a refinery or terminal operator registered under this chapter or paid to the board with respect to the crude oil or petroleum product.*

~~(2)~~

(5) An owner of crude oil or petroleum products is liable for the fee until it has been paid to the board, except that payment to a refinery or marine terminal operator registered under this chapter is sufficient to relieve the owner from further liability for the fee.

~~(3)~~

(6) On or before January 20, the administrator shall annually prepare a plan that projects revenues and expenses over three fiscal years, including the current year. Based on the plan, the administrator shall set the fee so that projected revenues, including any interest, are equivalent to expenses as reflected in the current Budget Act and in the proposed budget submitted by the Governor. In setting the fee, the administrator may allow for a surplus if the administrator finds that revenues will be exhausted during the period covered by the plan or that the surplus is necessary to cover possible contingencies. The administrator shall notify the board of the adjusted fee rate, which shall be rounded to no more than four decimal places, to be effective the first day of the month beginning not less than 30 days from the date of the notification.

(c) The moneys collected pursuant to subdivision (a) shall be deposited into the fund.

(d) The board shall collect the fee and adopt regulations for implementing the fee collection program.

(e) The fee described in this section shall be collected solely for all of the following purposes:

(1) To implement oil spill prevention programs through rules, regulations, leasing policies, guidelines, and inspections and to implement research into prevention and control technology.

1 (2) To carry out studies that may lead to improved oil spill
2 prevention and response.

3 (3) To finance ~~environmental~~ *public health, environmental*, and
4 economic studies relating to the effects of oil spills.

5 (4) To implement, install, and maintain emergency programs,
6 equipment, and facilities to respond to, contain, and clean up oil
7 spills and to ensure that those operations will be carried out as
8 intended.

9 ~~(5) To respond to an imminent threat of a spill in accordance~~
10 ~~with the provisions of Section 8670.62 pertaining to threatened~~
11 ~~discharges. The cumulative amount of an expenditure for this~~
12 ~~purpose shall not exceed the amount of one hundred thousand~~
13 ~~dollars (\$100,000) in a fiscal year unless the administrator receives~~
14 ~~the approval of the Director of Finance and notification is given~~
15 ~~to the Joint Legislative Budget Committee. Commencing with the~~
16 ~~1993-94 fiscal year, and each fiscal year thereafter, it is the intent~~
17 ~~of the Legislature that the annual Budget Act contain an~~
18 ~~appropriation of one hundred thousand dollars (\$100,000) from~~
19 ~~the fund for the purpose of allowing the administrator to respond~~
20 ~~to threatened oil spills.~~

21 ~~(6)~~
22 (5) To reimburse the board for costs incurred to implement this
23 chapter and to carry out Part 24 (commencing with Section 46001)
24 of Division 2 of the Revenue and Taxation Code.

25 ~~(7)~~
26 (6) ~~To cover costs incurred by~~ *fund* the Oiled Wildlife Care
27 Network ~~established by Section 8670.37.5 for training and field~~
28 ~~collection, and search and rescue activities, pursuant to subdivision~~
29 ~~(g) of Section 8670.37.5 pursuant to Section 8670.40.5.~~

30 (f) The moneys deposited in the fund shall not be used for
31 responding to an oil spill.

32 (g) The moneys deposited in the fund shall not be used to
33 provide a loan to any other fund.

34 ~~(h) This section shall become operative on January 1, 2012.~~

35 (h) *Every person who operates an oil refinery, marine terminal,*
36 *or a pipeline, shall register with the State Board of Equalization,*
37 *pursuant to Section 46101 of the Revenue and Taxation Code.*

38 *SEC. 37. Section 8670.40.5 is added to the Government Code,*
39 *to read:*

1 8670.40.5. (a) For each fiscal year, consistent with this article,
2 the administrator shall submit, as a proposed appropriation in the
3 Governor's Budget, an amount up to two million five hundred
4 thousand dollars (\$2,500,000) for the purpose of equipping,
5 operating, and maintaining the network of oiled wildlife rescue
6 and rehabilitation stations and proactive oiled wildlife search and
7 collection rescue efforts established pursuant to Section 8670.37.5
8 and for support of technology development and research related
9 to oiled wildlife care.

10 (b) The administrator shall report to the Legislature upon
11 request, on the progress and effectiveness of the network of oiled
12 wildlife rescue and rehabilitation stations established pursuant to
13 Section 8670.37.5, and the adequacy of the Oil Spill Prevention
14 and Administration Fund to meet the purposes for which the
15 network was established.

16 (c) At the administrator's request, the funds made available
17 pursuant to this section may be directly appropriated to a suitable
18 program for wildlife health and rehabilitation within a school of
19 veterinary medicine within this state, if an agreement exists,
20 consistent with this chapter, between the administrator and an
21 appropriate representative of the program for carrying out that
22 purpose. The administrator shall attempt to have an agreement in
23 place at all times. The agreement shall ensure that the training of,
24 and the care provided by, the program staff are at levels that are
25 consistent with those standards generally accepted within the
26 veterinary profession.

27 (d) The funds made available pursuant to this section shall not
28 be considered an offset to any other state funds appropriated to
29 the program, the program's associated school of veterinary
30 medicine, or the program's associated college or university, and
31 the funds shall not be used for any other purpose. If an offset does
32 occur or the funds are used for an unintended purpose, the
33 administrator may terminate expenditure of any funds appropriated
34 pursuant to this section and the administrator may request a
35 reappropriation to accomplish the intended purpose. The
36 administrator shall annually review and approve the proposed
37 uses of any funds made available pursuant to this section.

38 SEC. 38. Section 8670.42 of the Government Code is amended
39 to read:

1 8670.42. (a) ~~The Department of Fish and Game administrator~~
2 and the State Lands Commission, independently, shall contract
3 with the Department of Finance for the preparation of a detailed
4 report that shall be submitted on or before January 1, 2013, and
5 no less than once every four years thereafter, to the Governor and
6 the Legislature on the financial basis and programmatic
7 effectiveness of the state's oil spill prevention, response, and
8 preparedness program. This report shall include an analysis of all
9 of the oil spill prevention, response, and preparedness program's
10 major expenditures, fees and fines collected, staffing and equipment
11 levels, spills responded to, and other relevant issues. The report
12 shall recommend measures to improve the efficiency and
13 effectiveness of the state's oil spill prevention, response, and
14 preparedness program, including, but not limited to, measures to
15 modify existing contingency plan requirements, to improve
16 protection of sensitive shoreline sites, and to ensure adequate and
17 equitable funding for the state's oil spill prevention, response, and
18 preparedness program.

19 (b) A report to be submitted pursuant to subdivision (a) shall
20 be submitted in compliance with Section 9795.

21 *SEC. 39. Section 8670.47.5 of the Government Code is*
22 *amended to read:*

23 8670.47.5. The following shall be deposited into the fund:

24 (a) The fee required pursuant to Section 8670.48.

25 (b) Any federal funds received to pay for response, containment,
26 abatement, and rehabilitation costs from an oil spill in ~~marine~~
27 waters of the state.

28 (c) Any money borrowed by the Treasurer pursuant to Article
29 7.5 (commencing with Section 8670.53.1) or any draw on the
30 financial security obtained by the Treasurer pursuant to subdivision
31 (o) of Section 8670.48.

32 (d) Any interest earned on the moneys in the fund.

33 (e) Any costs recovered from responsible parties pursuant to
34 Section 8670.53 and subdivision (e) of Section 8670.53.1.

35 *SEC. 40. Section 8670.48 of the Government Code is amended*
36 *to read:*

37 8670.48. (a) (1) A uniform oil spill response fee in an amount
38 not exceeding twenty-five cents (\$0.25) for each barrel of
39 petroleum products, as set by the administrator pursuant to
40 subdivision (f), shall be imposed upon a person who owns

1 petroleum products at the time the petroleum products are received
2 at a marine terminal within this state by means of a vessel from a
3 point of origin outside this state. The fee shall be *collected by the*
4 *marine terminal and* remitted to the State Board of Equalization
5 by the terminal operator on the 25th day of each month based upon
6 the number of barrels of petroleum products received during the
7 preceding month.

8 (2) An owner of petroleum products is liable for the fee until it
9 has been paid to the state, except that payment to a marine terminal
10 operator registered under this chapter is sufficient to relieve the
11 owner from further liability for the fee.

12 (b) An operator of a pipeline shall also pay a uniform oil spill
13 response fee in an amount not exceeding twenty-five cents (\$0.25)
14 for each barrel of petroleum products, as set by the administrator
15 pursuant to subdivision (f), transported into the state by means of
16 a pipeline operating across, under, or through the ~~marine~~ waters
17 of the state. The fee shall be paid on the 25th day of each month
18 based upon the number of barrels of petroleum products so
19 transported into the state during the preceding month.

20 (c) ~~(1)~~—An operator of a refinery shall pay a uniform oil spill
21 response fee in an amount not exceeding twenty-five cents (\$0.25)
22 for each barrel of crude oil, as set by the administrator pursuant
23 to subdivision (f), received at a refinery within the state *by any*
24 *method of transport*. The fee shall be paid on the 25th day of each
25 month based upon the number of barrels of crude oil so received
26 during the preceding month.

27 ~~(2) The fee shall not be imposed by a refiner, or a person or~~
28 ~~entity acting as an agent for a refiner, on crude oil produced by an~~
29 ~~independent crude oil producer as defined in paragraph (3). The~~
30 ~~board shall not identify a company as exempt from the fee~~
31 ~~requirements of this section if that company was reorganized, sold,~~
32 ~~or otherwise modified with the intent of circumventing the~~
33 ~~requirements of this section.~~

34 ~~(3) For purposes of this chapter, “independent crude oil~~
35 ~~producer” means a person or entity producing crude oil within this~~
36 ~~state who does not refine crude oil into a product, and who does~~
37 ~~not possess or own a retail gasoline marketing facility.~~

38 (d) A marine terminal operator shall pay a uniform oil spill
39 response fee in an amount not exceeding twenty-five cents (\$0.25),
40 in accordance with subdivision (g), for each barrel of crude oil, as

1 set by the administrator pursuant to subdivision (f), that is
2 transported from within this state by means of a ~~marine~~ vessel to
3 a destination outside this state.

4 (e) An operator of a pipeline shall pay a uniform oil spill
5 response fee in an amount not exceeding twenty-five cents (\$0.25),
6 in accordance with subdivision (g), for each barrel of crude oil, as
7 set by the administrator pursuant to subdivision (f), transported
8 out of the state by pipeline.

9 (f) (1) The fees required pursuant to this section shall be
10 collected during any period for which the administrator determines
11 that collection is necessary for any of the following reasons:

12 (A) The amount in the fund is less than or equal to 95 percent
13 of the designated amount specified in subdivision (a) of Section
14 46012 of the Revenue and Taxation Code.

15 (B) Additional money is required to pay for the purposes
16 specified in subdivision (k).

17 (C) The revenue is necessary to repay a draw on a financial
18 security obtained by the Treasurer pursuant to subdivision (o) or
19 borrowing by the Treasurer pursuant to Article 7.5 (commencing
20 with Section 8670.53.1) including any principal, interest, premium,
21 fees, charges, or costs of any kind incurred in connection with
22 those borrowings or financial security.

23 (2) The administrator, in consultation with the State Board of
24 Equalization, and with the approval of the Treasurer, may direct
25 the State Board of Equalization to cease collecting the fee when
26 the administrator determines that further collection of the fee is
27 not necessary for the purposes specified in paragraph (1).

28 (3) The administrator, in consultation with the State Board of
29 Equalization, shall set the amount of the oil spill response fees.
30 The oil spill response fees shall be imposed on all feepayers in the
31 same amount. The administrator shall not set the amount of the
32 fee at less than twenty-five cents (\$0.25) for each barrel of
33 petroleum products or crude oil, unless the administrator finds that
34 the assessment of a lesser fee will cause the fund to reach the
35 designated amount specified in subdivision (a) of Section 46012
36 of the Revenue and Taxation Code within four months. The fee
37 shall not be less than twenty-five cents (\$0.25) for each barrel of
38 petroleum products or crude oil if the administrator has drawn
39 upon the financial security obtained by the Treasurer pursuant to
40 subdivision (o) or if the Treasurer has borrowed money pursuant

1 to Article 7.5 (commencing with Section 8670.53.1) and principal,
2 interest, premium, fees, charges, or costs of any kind incurred in
3 connection with those borrowings remain outstanding or unpaid,
4 unless the Treasurer has certified to the administrator that the
5 money in the fund is not necessary for the purposes specified in
6 paragraph (1).

7 (g) The fees imposed by subdivisions (d) and (e) shall be
8 imposed in any calendar year beginning the month following the
9 month when the total cumulative year-to-date barrels of crude oil
10 transported outside the state by all fee payers by means of vessel
11 or pipeline exceed 6 percent by volume of the total barrels of crude
12 oil and petroleum products subject to oil spill response fees under
13 subdivisions (a), (b), and (c) for the prior calendar year.

14 (h) For purposes of this chapter, “designated amount” means
15 the amounts specified in Section 46012 of the Revenue and
16 Taxation Code.

17 (i) The administrator, in consultation with the State Board of
18 Equalization and with the approval of the Treasurer, shall authorize
19 refunds of any money collected that is not necessary for the
20 purposes specified in paragraph (1) of subdivision (f). The State
21 Board of Equalization, as directed by the administrator, and in
22 accordance with Section 46653 of the Revenue and Taxation Code,
23 shall refund the excess amount of fees collected to each fee payer
24 who paid the fee to the state, in proportion to the amount that each
25 fee payer paid into the fund during the preceding 12 monthly
26 reporting periods in which there was a fee due, including the month
27 in which the fund exceeded the specified amount. If the total
28 amount of money in the fund exceeds the amount specified in this
29 subdivision by 10 percent or less, refunds need not be ordered by
30 the administrator. This section does not require the refund of excess
31 fees as provided in this subdivision more frequently than once
32 each year.

33 (j) The State Board of Equalization shall collect the fee and
34 adopt regulations implementing the fee collection program. All
35 fees collected pursuant to this section shall be deposited in the Oil
36 Spill Response Trust Fund.

37 (k) The fee described in this section shall be collected solely
38 for any of the following purposes:

39 (1) To provide funds to cover promptly the costs of response,
40 containment, and cleanup of oil spills into ~~marine~~ waters of the

1 *state*, including damage assessment costs, and wildlife
2 rehabilitation as provided in Section 8670.61.5.

3 (2) To cover response and cleanup costs and other damages
4 suffered by the state or other persons or entities from oil spills into
5 ~~marine waters of the state~~, which cannot otherwise be compensated
6 by responsible parties or the federal government.

7 (3) To pay claims for damages pursuant to Section 8670.51.

8 (4) To pay claims for damages, except for damages described
9 in paragraph (7) of subdivision (h) of Section 8670.56.5, pursuant
10 to Section 8670.51.1.

11 (5) To pay for the cost of obtaining financial security in the
12 amount specified in subdivision (b) of Section 46012 of the
13 Revenue and Taxation Code, as authorized by subdivision (o).

14 (6) To pay indemnity and related costs and expenses as
15 authorized by Section 8670.56.6.

16 (7) To pay principal, interest, premium, if any, and fees, charges,
17 and costs of any kind incurred in connection with moneys drawn
18 by the administrator on the financial security obtained by the
19 Treasurer pursuant to subdivision (o) or borrowed by the Treasurer
20 pursuant to Article 7.5 (commencing with Section 8670.53.1).

21 ~~(8) To pay for the costs of rescue, medical treatment,~~
22 ~~rehabilitation, and disposition of oiled wildlife, as incurred by the~~
23 ~~network of oiled wildlife rescue and rehabilitation stations created~~
24 ~~pursuant to Section 8670.37.5.~~

25 (8) *[Reserved]*

26 (l) ~~(1) The interest that the state earns on the funds deposited~~
27 ~~into the Oil Spill Response Trust Fund shall be deposited in the~~
28 ~~fund and shall be used to maintain the fund at the designated~~
29 ~~amount specified in subdivision (a) of Section 46012 of the~~
30 ~~Revenue and Taxation Code. Interest earned until July 1, 1998,~~
31 ~~on funds deposited pursuant to subdivision (a) of Section 46012~~
32 ~~of the Revenue and Taxation Code, as determined jointly by the~~
33 ~~Controller and the Director of Finance, shall be available upon~~
34 ~~appropriation by the Legislature in the Budget Act to establish,~~
35 ~~equip, operate, and maintain the network of rescue and~~
36 ~~rehabilitation stations for oiled wildlife as described in Section~~
37 ~~8670.37.5 and to support technology development and research~~
38 ~~related to oiled wildlife care. Interest earned on the financial~~
39 ~~security portion of the fund, required to be accessible pursuant to~~
40 ~~subdivision (b) of Section 46012 of the Revenue and Taxation~~

1 ~~Code shall not be available for that purpose. If the amount in the~~
2 ~~fund exceeds that designated amount, the interest not needed to~~
3 ~~equip, operate, and maintain the network of rescue and~~
4 ~~rehabilitation stations, or for appropriate technology development~~
5 ~~and research regarding oiled wildlife care, shall be deposited into~~
6 ~~the Oil Spill Prevention and Administration Fund, and shall be~~
7 ~~available for the purposes authorized by Article 6 (commencing~~
8 ~~with Section 8670.38).~~

9 ~~(2) (A) For each fiscal year, consistent with this article, the~~
10 ~~administrator shall submit, as a proposed appropriation in the~~
11 ~~Governor's Budget, an amount up to two million dollars~~
12 ~~(\$2,000,000) of the interest earned on the funds deposited into the~~
13 ~~Oil Spill Response Trust Fund for the purpose of equipping,~~
14 ~~operating, and maintaining the network of oiled wildlife rescue~~
15 ~~and rehabilitation stations and proactive oiled wildlife search and~~
16 ~~collection rescue efforts established pursuant to Section 8670.37.5~~
17 ~~and for support of technology development and research related~~
18 ~~to oiled wildlife care. The remaining interest, if any, shall be~~
19 ~~deposited into the Oil Spill Prevention and Administration Fund~~
20 ~~pursuant to paragraph (1).~~

21 ~~(B) The administrator shall report to the Legislature not later~~
22 ~~than June 30, 2002, on the progress and effectiveness of the~~
23 ~~network of oiled wildlife rescue and rehabilitation stations~~
24 ~~established pursuant to Section 8670.37.5, and the adequacy of~~
25 ~~the Oil Spill Response Trust Fund to meet the purposes for which~~
26 ~~it was established.~~

27 ~~(C) At the administrator's request, the funds made available~~
28 ~~pursuant to this paragraph may be directly appropriated to a suitable~~
29 ~~program for wildlife health and rehabilitation within a school of~~
30 ~~veterinary medicine within this state, provided that an agreement~~
31 ~~exists, consistent with this chapter, between the administrator and~~
32 ~~an appropriate representative of the program for carrying out that~~
33 ~~purpose. The administrator shall attempt to have an agreement in~~
34 ~~place at all times. The agreement shall ensure that the training of,~~
35 ~~and the care provided by, the program staff are at levels that are~~
36 ~~consistent with those standards generally accepted within the~~
37 ~~veterinary profession.~~

38 ~~(D) The funds made available pursuant to this paragraph shall~~
39 ~~not be considered an offset to any other state funds appropriated~~
40 ~~to the program, the program's associated school of veterinary~~

1 medicine, or the program's associated college or university, and
 2 the funds shall not be used for any other purpose. If an offset does
 3 occur or the funds are used for an unintended purpose, expenditure
 4 of any appropriation of funds pursuant to this paragraph may be
 5 terminated by the administrator and the administrator may request
 6 a reappropriation to accomplish the intended purpose. The
 7 administrator shall annually review and approve the proposed uses
 8 of any funds made available pursuant to this paragraph.

9 (m) The Legislature finds and declares that effective response
 10 to oil spills requires that the state have available sufficient funds
 11 in a response fund. The Legislature further finds and declares that
 12 maintenance of that fund is of utmost importance to the state and
 13 that the money in the fund shall be used solely for the purposes
 14 specified in subdivision (k).

15 ~~(n) It is the intent of the Legislature, in enacting this section,~~
 16 ~~that the fee shall not be imposed by a refiner, or a person or entity~~
 17 ~~acting as an agent for a refiner, on crude oil produced by an~~
 18 ~~independent crude oil producer.~~

19 (n) *[Reserved]*

20 (o) The Treasurer shall obtain financial security, in the
 21 designated amount specified in subdivision (b) of Section 46012
 22 of the Revenue and Taxation Code, in a form which, in the event
 23 of an oil spill, may be drawn upon immediately by the administrator
 24 upon making the determinations required by paragraph (2) of
 25 subdivision (a) of Section 8670.49. The financial security may be
 26 obtained in any of the forms described in subdivision (b) of Section
 27 8670.53.3, as determined by the Treasurer.

28 (p) This section does not limit the authority of the administrator
 29 to raise oil spill response fees pursuant to Section 8670.48.5.

30 (q) *Moneys in the fund may be used to respond to an imminent*
 31 *threat of a spill in accordance with the provisions of Section*
 32 *8670.62 pertaining to threatened discharges.*

33 *SEC. 41. Section 8670.48.3 of the Government Code is*
 34 *amended to read:*

35 8670.48.3. (a) Notwithstanding subparagraph (A) of paragraph
 36 (1) of subdivision (f) of Section 8670.48, a loan or other transfer
 37 of money from the fund to the General Fund pursuant to the Budget
 38 Act that reduces the balance of the Oil Spill Response Trust Fund
 39 to less than or equal to 95 percent of the designated amount
 40 specified in subdivision (a) of Section 46012 of the Revenue and

1 Taxation Code shall not obligate the administrator to resume
2 collection of the oil spill response fee otherwise required by this
3 article if both of the following conditions are met:

4 (1) The annual Budget Act requires a transfer or loan from the
5 fund to be repaid to the fund with interest calculated at a rate earned
6 by the Pooled Money Investment Account as if the money had
7 remained in the fund.

8 (2) The annual Budget Act requires all transfers or loans to be
9 repaid to the fund on or before June 30, ~~2014~~ 2017.

10 (b) A transfer or loan described in subdivision (a) shall be repaid
11 as soon as possible if a spill occurs and the administrator
12 determines that response funds are needed immediately.

13 (c) If there is a conflict between this section and any other law
14 or enactment, this section shall control.

15 (d) This section shall remain in effect until July 1, ~~2014~~, 2017,
16 and as of that date is repealed.

17 *SEC. 42. Section 8670.49 of the Government Code is amended*
18 *to read:*

19 8670.49. (a) (1) The administrator may only expend money
20 from the fund to pay for any of the following, subject to the lien
21 established in Section 8670.53.2:

22 (A) To pay the cost of obtaining financial security as authorized
23 by paragraph (5) of subdivision (k) and subdivision (o) of Section
24 8670.48.

25 (B) To pay the principal, interest, premium, if any, and fees,
26 charges, and costs of any kind incurred in connection with moneys
27 drawn by the administrator on the financial security obtained by
28 the Treasurer, or the moneys borrowed by the Treasurer, as
29 authorized by paragraph (7) of subdivision (k) of Section 8670.48.

30 ~~(C) To pay for the construction, equipping, operation, and~~
31 ~~maintenance of rescue and rehabilitation facilities, and technology~~
32 ~~development for oiled wildlife care from interest earned on money~~
33 ~~deposited in the fund as authorized by subdivision (l) of Section~~
34 ~~8670.48.~~

35 ~~(D) To pay for the costs of rescue, medical treatment,~~
36 ~~rehabilitation, and disposition of oiled wildlife, as incurred by the~~
37 ~~network of oiled wildlife rescue and rehabilitation stations pursuant~~
38 ~~to subdivision (f) of Section 8670.37.5.~~

39 (E)

1 (C) To pay for the expansion, in the VTS area, pursuant to
2 Section 445 of the Harbors and Navigation Code, of the vessel
3 traffic service system (VTS system) authorized pursuant to
4 subdivision (f) of Section 8670.21.

5 (2) If a spill has occurred, the administrator may expend the
6 money in the fund for the purposes identified in paragraphs (1),
7 (2), (3), (4), and (6) of subdivision (k) of Section 8670.48 only
8 upon making the following determinations:

9 (A) Except as authorized by Section 8670.51.1, a responsible
10 party does not exist or the responsible party is unable or unwilling
11 to provide adequate and timely cleanup and to pay for the damages
12 resulting from the spill. The administrator shall make a reasonable
13 effort to have the party responsible remove the oil or agree to pay
14 for any actions resulting from the spill that may be required by
15 law, provided that the efforts are not detrimental to fish, plant,
16 animal, or bird life in the affected waters. The reasonable effort
17 of the administrator shall include attempting to access the
18 responsible parties' insurance or other proof of financial
19 responsibility.

20 (B) Sufficient federal oil spill funds are not available or will
21 not be available in an adequate period of time.

22 (3) Notwithstanding any other provision of this subdivision, the
23 administrator may expend money from the fund for authorized
24 expenditures when a reimbursement procedure is in place to receive
25 reimbursements for those expenditures from federal oil spill funds.

26 (b) Upon making the determinations specified in paragraph (2)
27 of subdivision (a), the administrator shall immediately make
28 whatever payments are necessary for responding to, containing,
29 or cleaning up, the spill, including any wildlife rehabilitation
30 required by law and payment of claims pursuant to Sections
31 8670.51 and 8670.51.1, subject to the lien established by Section
32 8670.53.2.

33 *SEC. 43. Section 8670.50 of the Government Code is amended*
34 *to read:*

35 8670.50. (a) Money from the fund may only be expended to
36 cover the costs incurred by the state and local governments and
37 agencies for any of the following:

38 (1) Responding promptly to, containing, and cleaning up the
39 discharge, if those efforts are any of the following:

1 (A) Undertaken pursuant to the state and local oil spill
2 contingency plans established under this chapter, and the ~~marine~~
3 ~~response element of the~~ California oil spill contingency plan
4 established under Article 3.5 (commencing with Section 8574.1)
5 of Chapter 7.

6 (B) Undertaken consistent with the standardized emergency
7 management system established pursuant to Section 8607.

8 (C) Undertaken at the direction of the administrator.

9 (2) Meeting the requirements of Section 8670.61.5, relating to
10 wildlife rehabilitation.

11 (3) Making the payments authorized by subdivision (k) of
12 Section 8670.48.

13 (b) In the event of an oil spill, the administrator shall make
14 whatever expenditures are necessary and appropriate from the fund
15 to cover the costs described in subdivision (a), subject to the lien
16 established pursuant to Section 8670.53.2.

17 *SEC. 44. Section 8670.51 of the Government Code is amended*
18 *to read:*

19 8670.51. (a) When a person has obtained a final judgment for
20 damages resulting from an oil spill in ~~marine~~ waters *of the state*,
21 but is unable, within one year after the date of its entry, to enforce
22 the judgment pursuant to Title 9 (commencing with Section
23 680.010) of the Code of Civil Procedure, or is unable to obtain
24 satisfaction of the judgment from the federal government within
25 90 additional days, the administrator shall pay an amount not to
26 exceed those amounts ~~which~~ *that* cannot be recovered from a
27 responsible party and the fund shall be subrogated to all rights,
28 claims, and causes of action that the claimant has under this
29 chapter, Article 3.5 (commencing with Section 8574.1) of Chapter
30 7, Section 8670.61.5, and Division 7.8 (commencing with Section
31 8750) of the Public Resources Code.

32 (b) Any person may apply to the fund for compensation for
33 damages and losses suffered as a result of an oil spill in ~~marine~~
34 waters *of the state* under any of the following conditions:

35 (1) The responsible party or parties cannot be ascertained.

36 (2) A responsible party is not liable for noneconomic damages
37 caused by another.

38 (3) Subdivision (i) of Section 8670.56.6 is applicable to the
39 claim.

(c) The administrator shall not approve any claim in an amount ~~which~~ *that* exceeds the amount to which the person would otherwise be entitled pursuant to Section 8670.56.5, and shall pay claims from the fund which are approved pursuant to this section.

SEC. 45. Section 8670.53 of the Government Code is amended to read:

8670.53. The Attorney General, in consultation with the administrator, shall undertake actions to recover all costs to the funds from any responsible party for an oil spill into ~~marine~~ *of the state* waters for which expenditures are made from the fund. The recovery of costs pursuant to this section shall not foreclose the Attorney General from any other actions allowed by law.

SEC. 46. Section 8670.54 of the Government Code is amended to read:

8670.54. (a) The Oil Spill Technical Advisory Committee, hereafter in this article, the committee, is hereby established to provide public input and independent judgment of the actions of the administrator. The committee shall consist of ~~10~~ *14* members, of whom ~~six~~ *eight* shall be appointed by the Governor, ~~two~~ *three* by the Speaker of the Assembly, and ~~two~~ *three* by the Senate ~~Committee on Rules-Committee~~. The appointments shall be made in the following manner:

(1) The Speaker of the ~~Assembly~~, *Assembly* and Senate ~~Committee on Rules-Committee~~ shall each appoint ~~members a~~ *member* who shall be ~~representatives a representative~~ of the public.

(2) The Governor shall appoint a member who has a demonstrable knowledge of marine transportation.

(3) The Speaker of the Assembly and the Senate Rules Committee shall each appoint ~~a member~~ *two members* who ~~has~~ *have* demonstrable knowledge of environmental protection and the study of ecosystems.

(4) The Governor shall appoint a member who has served as a local government elected official or who has worked for a local government.

(5) The Governor shall appoint a member who has experience in oil spill response and prevention programs.

(6) The Governor shall appoint a member who has been employed in the petroleum industry.

(7) The Governor shall appoint a member who has worked in state government.

1 (8) The Governor shall appoint a member who has demonstrable
2 knowledge of the dry cargo vessel industry.

3 (9) *The Governor shall appoint a member who has demonstrable*
4 *knowledge of the railroad industry.*

5 (10) *The Governor shall appoint a member who has*
6 *demonstrable knowledge of the oil production industry.*

7 (b) The committee shall meet as often as required, but at least
8 twice per year. Members shall be paid one hundred dollars (\$100)
9 per day for each meeting and all necessary travel expenses at state
10 per diem rates.

11 (c) The administrator and any personnel the administrator
12 determines to be appropriate shall serve as staff to the committee.

13 (d) ~~A chairman chair and vice-chairman chair~~ shall be elected
14 by a majority vote of the committee.

15 ~~(e) This section shall become operative on January 1, 2012.~~

16 ~~SEC. 3.~~

17 *SEC. 47.* Section 8670.55 of the Government Code is amended
18 to read:

19 8670.55. (a) (1) The committee shall provide
20 recommendations to the administrator, the State Lands
21 Commission, the California Coastal Commission, ~~and the San~~
22 ~~Francisco Bay Conservation and Development Commission,~~
23 *Division of Oil, Gas, and Geothermal Resources, the Office of the*
24 *State Fire Marshall, and the Public Utilities Commission* on any
25 provision of this chapter including the promulgation of all rules,
26 regulations, guidelines, and policies.

27 (2) Pursuant to paragraph (1), the committee shall monitor and
28 evaluate the modes of transportation of oil into and within the state
29 and the properties of the oil to identify any necessary changes in
30 oil spill response and preparedness programs to meet the goals of
31 this chapter.

32 (b) The committee may, at its own discretion, study, comment
33 on, or evaluate, any aspect of oil spill prevention and response in
34 the state. To the greatest extent possible, these studies shall be
35 coordinated with studies being done by the federal government,
36 the administrator, the State Lands Commission, the State Water
37 Resources Control Board, and other appropriate state and
38 international entities. Duplication with the efforts of other entities
39 shall be minimized.

1 (c) The committee may attend any drills called pursuant to
2 Section 8670.10 or any oil spills, if practicable.

3 (d) The committee shall report biennially to the Governor and
4 the Legislature on its evaluation of oil spill response and
5 preparedness programs within the state and may prepare and send
6 any additional reports it determines to be appropriate to the
7 Governor and the Legislature.

8 ~~(e) On or before August 1, 2005, the committee shall review~~
9 ~~the Department of Finance report required under Section 8670.42~~
10 ~~and prepare and submit to the Governor and the Legislature~~
11 ~~comments on the report, including, but not limited to,~~
12 ~~recommendations for improving the state's oil spill prevention,~~
13 ~~response, and preparedness program.~~

14 *SEC. 48. Section 8670.56.5 of the Government Code is*
15 *amended to read:*

16 8670.56.5. (a) A responsible party, as defined in Section
17 8670.3, shall be absolutely liable without regard to fault for any
18 damages incurred by any injured party that arise out of, or are
19 caused by a spill or inland spill.

20 (b) A responsible person is not liable to an injured party under
21 this section for any of the following:

22 (1) Damages, other than costs of removal incurred by the state
23 or a local government, caused solely by any act of war, hostilities,
24 civil war, or insurrection or by an unanticipated grave natural
25 disaster or other act of God of an exceptional, inevitable, and
26 irresistible character, which could not have been prevented or
27 avoided by the exercise of due care or foresight.

28 (2) Damages caused solely by the negligence or intentional
29 malfeasance of that injured party.

30 (3) Damages caused solely by the criminal act of a third party
31 other than the defendant or an agent or employee of the defendant.

32 (4) Natural seepage not caused by a responsible party.

33 (5) Discharge or leaking of oil or natural gas from a private
34 pleasure boat or vessel.

35 (6) Damages that arise out of, or are caused by, a discharge that
36 is authorized by a state or federal permit.

37 (c) The defenses provided in subdivision (b) shall not be
38 available to a responsible person who fails to comply with Sections
39 8670.25, 8670.25.5, 8670.27, and 8670.62.

1 (d) Upon motion and sufficient showing by a party deemed to
2 be responsible under this section, the court shall join to the action
3 any other party who may be responsible under this section.

4 (e) In determining whether a party is a responsible party under
5 this section, the court shall consider the results of chemical or other
6 scientific tests conducted to determine whether oil or other
7 substances produced, discharged, or controlled by the defendant
8 matches the oil or other substance that caused the damage to the
9 injured party. The defendant shall have the burden of producing
10 the results of tests of samples of the substance that caused the
11 injury and of substances for which the defendant is responsible,
12 unless it is not possible to conduct the tests because of
13 unavailability of samples to test or because the substance is not
14 one for which reliable tests have been developed. At the request
15 of a party, any other party shall provide samples of oil or other
16 substances within its possession or control for testing.

17 (f) The court may award reasonable costs of the suit, attorneys'
18 fees, and the costs of necessary expert witnesses to a prevailing
19 plaintiff. The court may award reasonable costs of the suit and
20 attorneys' fees to a prevailing defendant if the court finds that the
21 plaintiff commenced or prosecuted the suit under this section in
22 bad faith or solely for purposes of harassing the defendant.

23 (g) This section does not prohibit a person from bringing an
24 action for damages caused by oil or by exploration, under any
25 other provision or principle of law, including, but not limited to,
26 common law. However, damages shall not be awarded pursuant
27 to this section to an injured party for loss or injury for which the
28 party is or has been awarded damages under any other provision
29 or principle of law. Subdivision (b) does not create a defense not
30 otherwise available regarding an action brought under any other
31 provision or principle of law, including, but not limited to, common
32 law.

33 (h) Damages for which responsible parties are liable under this
34 section include the following:

35 (1) All costs of response, containment, cleanup, removal, and
36 treatment, including, but not limited to, monitoring and
37 administration costs incurred pursuant to the California oil spill
38 contingency plan or actions taken pursuant to directions by the
39 administrator.

1 (2) Injury to, or economic losses resulting from destruction of
2 or injury to, real or personal property, which shall be recoverable
3 by any claimant who has an ownership or leasehold interest in
4 property.

5 (3) Injury to, destruction of or loss of, natural resources,
6 including, but not limited to, the reasonable costs of rehabilitating
7 wildlife, habitat, and other resources and the reasonable costs of
8 assessing that injury, destruction, or loss, in an action brought by
9 the state, a county, city, or district. Damages for the loss of natural
10 resources may be determined by any reasonable method, including,
11 but not limited to, determination according to the costs of restoring
12 the lost resource.

13 (4) Loss of subsistence use of natural resources, which shall be
14 recoverable by a claimant who so uses natural resources that have
15 been injured, destroyed, or lost.

16 (5) Loss of taxes, royalties, rents, or net profit shares caused by
17 the injury, destruction, loss, or impairment of use of real property,
18 personal property, or natural resources.

19 (6) Loss of profits or impairment of earning capacity due to the
20 injury, destruction, or loss of real property, personal property, or
21 natural resources, which shall be recoverable by any claimant who
22 derives at least 25 percent of his or her earnings from the activities
23 that utilize the property or natural resources, or, if those activities
24 are seasonal in nature, 25 percent of his or her earnings during the
25 applicable season.

26 (7) Loss of use and enjoyment of natural resources, public
27 beaches, and other public resources or facilities, in an action
28 brought by the state, a county, city, or district.

29 (i) Except as provided in Section 1431.2 of the Civil Code,
30 liability under this section shall be joint and several. However, this
31 section does not bar a cause of action that a responsible party has
32 or would have, by reason of subrogation or otherwise, against a
33 person.

34 (j) This section does not apply to claims for damages for
35 personal injury or wrongful death, and does not limit the right of
36 a person to bring an action for personal injury or wrongful death
37 under any provision or principle of law.

38 (k) Payments made by a responsible party to cover liabilities
39 arising from a discharge of oil, whether under this division or any
40 other provision of federal, state, or local law, shall not be charged

1 against royalties, rents, or net profits owed to the United States,
2 the state, or any other public entity.

3 (l) An action that a private or public individual or entity may
4 have against a responsible party under this section may be brought
5 directly by the individual or entity or by the state on behalf of the
6 individual or entity. However, the state shall not pursue an action
7 on behalf of a private individual or entity that requests the state
8 not to pursue that action.

9 (m) For the purposes of this section, “vessels” means vessels
10 as defined in Section 21 of the Harbors and Navigation Code.

11 *SEC. 49. Section 8670.56.6 of the Government Code is*
12 *amended to read:*

13 8670.56.6. (a) (1) Except as provided in subdivisions (b) and
14 (d), and subject to subdivision (c), ~~no~~ a person, including, but not
15 limited to, an oil spill cooperative, its agents, subcontractors, or
16 employees, shall *not* be liable under this chapter or the laws of the
17 state to any person for costs, damages, or other claims or expenses
18 as a result of actions taken or omitted in good faith in the course
19 of rendering care, assistance, or advice in accordance with the
20 National Contingency Plan, the California oil spill contingency
21 plan, or at the direction of the administrator, onsite coordinator,
22 or the Coast Guard in response to a spill or threatened spill ~~of oil~~.

23 (2) The qualified immunity under this section shall not apply
24 to any oil spill response action that is inconsistent with the
25 following:

26 (A) The directions of the unified command, consisting of at
27 least the Coast Guard and the administrator.

28 (B) In the absence of a unified command, the directions of the
29 administrator pursuant to Section 8670.27.

30 (C) In the absence of directions pursuant to subparagraph (A)
31 or (B), applicable oil spill contingency plans implemented under
32 this division.

33 (3) Nothing in this section shall, in any manner or respect, affect
34 or impair any cause of action against or any liability of any person
35 or persons responsible for the spill, for the discharged oil, or for
36 the vessel, terminal, pipeline, or facility from which the oil was
37 discharged. The responsible person or persons shall remain liable
38 for any and all damages arising from the discharge, including
39 damages arising from improperly carried out response efforts, as
40 otherwise provided by law.

1 (b) Nothing in this section shall, in any manner or respect, affect
2 or impair any cause of action against or any liability of any party
3 or parties responsible for the spill, or the responsible party's agents,
4 employees, or subcontractors, except persons immunized under
5 subdivision (a) for response efforts, for the discharged oil, or for
6 the vessel, terminal, pipeline, or ~~marine~~ facility from which the
7 oil was discharged.

8 (c) The responsible party or parties shall be subject to both of
9 the following:

10 (1) Notwithstanding subdivision (b) or (i) of Section 8670.56.5,
11 or any other provision of law, be strictly and jointly and severally
12 liable for all damages arising pursuant to subdivision (h) of Section
13 8670.56.5 from the response efforts of its agents, employees,
14 subcontractors, or an oil spill cooperative of which it is a member
15 or with which it has a contract or other arrangement for cleanup
16 of its oil spills, unless it would have a defense to the original spill.

17 (2) Remain strictly liable for any and all damages arising from
18 the response efforts of a person other than a person specified in
19 paragraph (1).

20 (d) Nothing in this section shall immunize a cooperative or any
21 other person from liability for acts of gross negligence or willful
22 misconduct in connection with the cleanup of a spill.

23 (e) This section does not apply to any action for personal injury
24 or wrongful death.

25 (f) As used in this section, a "cooperative" means an
26 organization of private persons which is established for the primary
27 purpose and activity of preventing or rendering care, assistance,
28 or advice in response to a spill or threatened spill.

29 (g) Except for the responsible party, membership in a
30 cooperative shall not, in and of itself, be grounds for liability
31 resulting from cleanup activities of the cooperative.

32 (h) For purposes of this section, there shall be a rebuttable
33 presumption that an act or omission described in subdivision (a)
34 was taken in good faith.

35 (i) In any situation in which immunity is granted pursuant to
36 subdivision (a) and a responsible party is not liable, is not liable
37 for noneconomic damages caused by another, or is partially or
38 totally insolvent, the fund provided for in Article 7 (commencing
39 with Section 8670.46) shall, in accordance with its terms, reimburse

1 claims of any injured party for which a person who is granted
2 immunity pursuant to this section would otherwise be liable.

3 (j) (1) The immunity granted by this section shall only apply
4 to response efforts that are undertaken after the administrator
5 certifies that contracts with qualified and responsible persons are
6 in place to ensure an adequate and expeditious response to any
7 foreseeable oil spill that may occur in ~~marine~~ waters *of the state*
8 for which the responsible party (A) cannot be identified or (B) is
9 unable or unwilling to respond, contain, and clean up the oil spill
10 in an adequate and timely manner. In negotiating these contracts,
11 the administrator shall, to the maximum extent practicable, procure
12 the services of persons who are willing to respond to oil spills with
13 no, or lesser, immunity than that conferred by this section, but, in
14 no event, a greater immunity. The administrator shall make the
15 certification required by this subdivision on an annual basis. Upon
16 certification, the immunity conferred by this section shall apply
17 to all response efforts undertaken during the calendar year to which
18 the certification applies. In the absence of the certification required
19 by this subdivision, the immunity conferred by this section shall
20 not attach to any response efforts undertaken by any person in
21 ~~marine~~ waters *of the state*.

22 (2) In addition to the authority to negotiate contracts described
23 in paragraph (1), the administrator may also negotiate and enter
24 into indemnification agreements with qualified and financially
25 responsible persons to respond to oil spills that may occur in ~~marine~~
26 waters *of the state* for which the responsible party (A) cannot be
27 identified or (B) is unable or unwilling to respond, contain, and
28 clean up the oil spill in an adequate and timely manner.

29 (3) The administrator may indemnify response contractors for
30 (A) all damages payable by means of settlement or judgment that
31 arise from response efforts to which the immunity conferred by
32 this section would otherwise apply, and (B) reasonably related
33 legal costs and expenses incurred by the responder, provided that
34 indemnification shall only apply to response efforts undertaken
35 after the expiration of any immunity that may exist as the result
36 of the contract negotiations authorized in this subdivision. In
37 negotiating these contracts, the administrator shall, to the maximum
38 extent practicable, procure the services of persons who are willing
39 to respond to oil spills with no, or as little, right to indemnification

1 as possible. All indemnification shall be paid by the administrator
2 from the Oil Spill Response Trust Fund.

3 (4) (A) The contracts required by this section, and any other
4 contracts entered into by the administrator for response,
5 containment, or cleanup of an existing spill, *or for response of an*
6 *imminent threat of a spill*, the payment of which is to be made
7 from the Oil Spill Response Trust Fund created pursuant to Section
8 8670.46, ~~or for response to an imminent threat of a spill, the~~
9 ~~payment of which is to be made out of the Oil Spill Prevention~~
10 ~~and Administration Fund created pursuant to Section 8670.38,~~
11 shall be exempt from Part 2 (commencing with Section 10100) of
12 Division 2 of the Public Contract Code and Article 6 (commencing
13 with Section 999) of Chapter 6 of Division 4 of the Military and
14 Veterans Code.

15 (B) The exemption specified in subparagraph (A) applies only
16 to contracts for which the services are used for a period of less
17 than 90 days, cumulatively, per year.

18 (C) This paragraph shall not be construed as limiting the
19 administrator's authority to exercise the emergency powers granted
20 pursuant to subdivision (c) of Section 8670.62, including the
21 authority to enter into emergency contracts that are exempt from
22 approval by the Department of General Services.

23 (k) (1) With regard to a person who is regularly engaged in the
24 business of responding to oil spills, the immunity conferred by
25 this section shall not apply to any response efforts by that person
26 that occur later than 60 days after the first day the person's response
27 efforts commence.

28 (2) Notwithstanding the limitation contained in paragraph (1),
29 the administrator may, upon making all the following findings,
30 extend the period of time, not to exceed 30 days, during which the
31 immunity conferred by this section applies to response efforts:

32 (A) Due to inadequate or incomplete containment and
33 stabilization, there exists a substantial probability that the size of
34 the spill will significantly expand and (i) threaten previously
35 uncontaminated ~~marine or land~~ resources, (ii) threaten already
36 contaminated ~~marine or land~~ resources with substantial additional
37 contamination, or (iii) otherwise endanger the public health and
38 safety or harm the environment.

39 (B) The remaining work is of a difficult or perilous nature that
40 extension of the immunity is clearly in the public interest.

(C) No other qualified and financially responsible contractor is prepared and willing to complete the response effort in the absence of the immunity, or a lesser immunity, as negotiated by contract.

(3) The administrator shall provide five days' notice of his or her proposed decision to either extend, or not extend, the immunity conferred by this section. Interested parties shall be given an opportunity to present oral and written evidence at an informal hearing. In making his or her proposed decision, the administrator shall specifically seek and consider the advice of the relevant Coast Guard representative. The administrator's decision to not extend the immunity shall be announced at least 10 working days before the expiration of the immunity to provide persons an opportunity to terminate their response efforts as contemplated by paragraph (4).

(4) No person or their agents, subcontractors, or employees shall incur any liability under this chapter or any other provision of law solely as a result of that person's decision to terminate their response efforts because of the expiration of the immunity conferred by this section. A person's decision to terminate response efforts because of the expiration of the immunity conferred by this section shall not in any manner impair, curtail, limit, or otherwise affect the immunity conferred on the person with regard to the person's response efforts undertaken during the period of time the immunity applied to those response efforts.

(5) The immunity granted under this section shall attach, without the limitation contained in this subdivision, to the response efforts of any person who is not regularly engaged in the business of responding to oil spills. A person who is not regularly engaged in the business of responding to oil spills includes, but is not limited to, (A) a person who is primarily dedicated to the preservation and rehabilitation of wildlife and (B) a person who derives his or her livelihood primarily from fishing.

(l) As used in this section, "response efforts" means rendering care, assistance, or advice in accordance with the National Contingency Plan, the California oil spill contingency plan, or at the direction of the administrator, ~~onsite coordinator,~~ *United States Environmental Protection Agency*, or the Coast Guard in response to a spill or threatened spill into ~~marine~~ *waters of the state*.

SEC. 50. Section 8670.61.5 of the Government Code is amended to read:

1 8670.61.5. (a) For purposes of this chapter, “wildlife
2 rehabilitation” means those actions that are necessary to fully
3 mitigate for the damage caused to wildlife, fisheries, wildlife
4 habitat, and fisheries habitat, including beaches, from a ~~spill or~~
5 ~~inland~~ spill.

6 (b) Responsible parties shall fully mitigate adverse impacts to
7 wildlife, fisheries, wildlife habitat, and fisheries habitat. Full
8 mitigation shall be provided by successfully carrying out
9 environmental projects or funding restoration activities required
10 by the administrator in carrying out projects complying with the
11 requirements of this section. Responsible parties are also liable
12 for the costs incurred by the administrator or other government
13 agencies in carrying out this section.

14 (c) If any significant wildlife rehabilitation is necessary, the
15 administrator may require the responsible party to prepare and
16 submit to the administrator, and to implement, a wildlife
17 rehabilitation plan. The plan shall describe the actions that will be
18 implemented to fully meet the requirements of subdivision (b),
19 describe contingency measures that will be carried out in the event
20 that any of the plan actions are not fully successful, provide a
21 reasonable implementation schedule, describe the monitoring and
22 compliance program, and provide a financing plan. The
23 administrator shall review and determine whether to approve the
24 plan within 60 days of submittal. Before approving a plan, the
25 administrator shall first find that the implementation of the plan
26 will fully mitigate the adverse impacts to wildlife, fisheries, wildlife
27 habitat, and fisheries habitat. If the habitat contains beaches that
28 are or were used for recreational purposes, the Department of Parks
29 and Recreation shall review the plan and provide comments to the
30 administrator.

31 (d) The plan shall place first priority on avoiding and minimizing
32 any adverse impacts. For impacts that do occur, the plan shall
33 provide for full onsite restoration of the damaged resource to the
34 extent feasible. To the extent that full onsite restoration is not
35 feasible, the plan shall provide for offsite in-kind mitigation to the
36 extent feasible. To the extent that adverse impacts still have not
37 been fully mitigated, the plan shall provide for the enhancement
38 of other similar resources to the extent necessary to meet the
39 requirements of subdivision (b). In evaluating whether a wildlife
40 rehabilitation plan is adequate, the administrator may use the

1 habitat evaluation *methods or* procedures established by the United
2 States Fish and Wildlife Service or any other reasonable methods
3 as determined by the ~~Director of Department of Fish and Game~~
4 *Wildlife*.

5 (e) The administrator shall prepare regulations to implement
6 this section. The regulations shall include deadlines for the
7 submittal of plans. In establishing the deadlines, the administrator
8 shall consider circumstances such as the size of the spill and the
9 time needed to assess damage and mitigation.

10 *SEC. 51. Section 8670.62 of the Government Code is amended*
11 *to read:*

12 8670.62. (a) Any person who discharges oil into ~~marine~~ waters
13 *of the state*, upon order of the administrator, shall do all of the
14 following:

15 (1) Clean up the oil.

16 (2) Abate the effects of the discharge.

17 (3) In the case of a threatened discharge, take other necessary
18 remedial action.

19 (b) Upon failure of any person to comply with a cleanup or
20 abatement order, the Attorney General or a district attorney, at the
21 request of the administrator, shall petition the superior court for
22 that county for the issuance of an injunction requiring the person
23 to comply with the order. In any such suit, the court shall have
24 jurisdiction to grant a prohibitory or mandatory injunction, either
25 preliminary or permanent, as the facts may warrant.

26 (c) Consistent with the state contingency plan, the administrator
27 may expend available money to perform any response;
28 containment; cleanup; wildlife rehabilitation, which includes
29 assessment of resource injuries and damages, or remedial work
30 required pursuant to subdivision (a) which, in the administrator's
31 judgment, is required by the circumstances or the urgency of
32 prompt action required to prevent pollution, nuisance, or injury to
33 the environment of the state. The action may be taken in default
34 of, or in addition to, remedial work by the responsible party or
35 other persons, and regardless of whether injunctive relief is sought.
36 The administrator may perform the work in cooperation with any
37 other governmental agency, and may use rented tools or equipment,
38 either with *or without* operators furnished ~~or unoperated~~.
39 Notwithstanding any other provisions of law, the administrator
40 may enter into oral contracts for the work, and the contracts,

1 whether written or oral, may include provisions for equipment
2 rental and the furnishing of labor and materials necessary to
3 accomplish the work. The contracts shall be exempt from Part 2
4 (commencing with Section 10100) of Division 2 of the Public
5 Contract Code and Article 6 (commencing with Section 999) of
6 Chapter 6 of Division 4 of the Military and Veterans Code.

7 (d) If the discharge is cleaned up, or attempted to be cleaned
8 up, the effects thereof abated, or, in the case of threatened pollution
9 or nuisance, other necessary remedial action is taken by any
10 governmental agency, the person or persons who discharged the
11 waste, discharged the oil, or threatened to cause or permit the
12 discharge of the oil within the meaning of subdivision (a), shall
13 be liable to that governmental agency for the reasonable costs
14 actually incurred in cleaning up that waste, abating the effects
15 thereof, or taking other remedial action. The amount of the costs
16 shall be recoverable in a civil action by, and paid to, the applicable
17 governmental agency and the administrator, to the extent the
18 administrator contributed to the cleanup costs from the Oil Spill
19 Response Trust Fund or other available funds.

20 (e) If, despite reasonable effort by the administrator to identify
21 the party responsible for the discharge of oil or the condition of
22 pollution or nuisance, the person is not identified at the time
23 cleanup, abatement, or remedial work must be performed, the
24 administrator shall not be required to issue an order under this
25 section. The absence of a responsible party shall not in any way
26 limit the powers of the administrator under this section.

27 (f) "Threaten," for purposes of this section, means a condition
28 creating a substantial probability of harm, when the probability
29 and potential extent of harm makes it reasonably necessary to take
30 immediate action to prevent, reduce, or mitigate damages to
31 persons, property, or natural resources.

32 *SEC. 52. Section 8670.64 of the Government Code is amended*
33 *to read:*

34 8670.64. (a) A person who commits any of the following acts,
35 shall, upon conviction, be punished by imprisonment in a county
36 jail for not more than one year or by imprisonment pursuant to
37 subdivision (h) of Section 1170 of the Penal Code:

38 (1) Except as provided in Section 8670.27, knowingly fails to
39 follow the direction or orders of the administrator in connection
40 with an oil spill.

(2) Knowingly fails to notify the Coast Guard that a vessel is disabled within one hour of the disability and the vessel, while disabled, causes a discharge of oil which enters marine waters. For the purposes of this paragraph, “vessel” means a vessel, as defined in Section 21 of the Harbors and Navigation Code, of 300 gross registered tons or more.

(3) Knowingly engages in or causes the discharge or spill of oil into ~~marine~~ waters *of the state*, or a person who reasonably should have known that he or she was engaging in or causing the discharge or spill of oil into ~~marine~~ waters *of the state*, unless the discharge is authorized by the United States, the state, or another agency with appropriate jurisdiction.

(4) Knowingly fails to begin cleanup, abatement, or removal of spilled oil as required in Section 8670.25.

(b) The court shall also impose upon a person convicted of violating subdivision (a), a fine of not less than five thousand dollars (\$5,000) or more than five hundred thousand dollars (\$500,000) for each violation. For purposes of this subdivision, each day or partial day that a violation occurs is a separate violation.

(c) (1) A person who knowingly does any of the acts specified in paragraph (2) shall, upon conviction, be punished by a fine of not less than two thousand five hundred dollars (\$2,500) or more than two hundred fifty thousand dollars (\$250,000), or by imprisonment in a county jail for not more than one year, or by both the fine and imprisonment. Each day or partial day that a violation occurs is a separate violation. If the conviction is for a second or subsequent violation of this subdivision, the person shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or in a county jail for not more than one year, or by a fine of not less than five thousand dollars (\$5,000) or more than five hundred thousand dollars (\$500,000), or by both that fine and imprisonment:

(2) The acts subject to this subdivision are all of the following:

(A) Failing to notify the Office of Emergency Services in violation of Section 8670.25.5.

(B) Knowingly making a false or misleading ~~marine~~ oil spill report to the Office of Emergency Services.

1 (C) Continuing operations for which an oil spill contingency
2 plan is required without an oil spill contingency plan approved
3 pursuant to Article 5 (commencing with Section 8670.28).

4 (D) Except as provided in Section 8670.27, knowingly failing
5 to follow the material provisions of an applicable oil spill
6 contingency plan.

7 *SEC. 53. Section 8670.66 of the Government Code is amended*
8 *to read:*

9 8670.66. (a) ~~Any~~ A person who intentionally or negligently
10 does any of the following acts shall be subject to a civil penalty
11 for a spill of not less than fifty thousand dollars (\$50,000) or more
12 than one million dollars (\$1,000,000), ~~or for an inland spill not to~~
13 ~~exceed fifty thousand dollars (\$50,000)~~, for each violation, and
14 each day or partial day that a violation occurs is a separate
15 violation:

16 (1) Except as provided in Section 8670.27, fails to follow the
17 direction or orders of the administrator in connection with a spill
18 or inland spill.

19 (2) Fails to notify the Coast Guard that a vessel is disabled
20 within one hour of the disability and the vessel, while disabled,
21 causes a spill that enters marine waters. For the purposes of this
22 paragraph, “vessel” means a vessel, as defined in Section 21 of
23 the Harbors and Navigation Code, of 300 gross registered tons or
24 more.

25 (3) Is responsible for a spill ~~or inland spill~~, unless the discharge
26 is authorized by the United States, the state, or other agency with
27 appropriate jurisdiction.

28 (4) Fails to begin cleanup, abatement, or removal of oil as
29 required in Section 8670.25.

30 (b) Except as provided in subdivision (a), any person who
31 intentionally or negligently violates any provision of this chapter,
32 or Division 7.8 (commencing with Section 8750) of the Public
33 Resources Code, or any permit, rule, regulation, standard, or
34 requirement issued or adopted pursuant to those provisions, shall
35 be liable for a civil penalty not to exceed two hundred fifty
36 thousand dollars (\$250,000) for each violation of a separate
37 provision, or, for continuing violations, for each day that violation
38 continues.

(c) ~~No~~ A person shall *not* be liable for a civil penalty imposed under this section and for a civil penalty imposed pursuant to Section 8670.67 for the same act or failure to act.

SEC. 54. Section 8670.67 of the Government Code is amended to read:

8670.67. (a) Any person who intentionally or negligently does any of the following acts shall be subject to an administrative civil penalty for a spill not to exceed two hundred thousand dollars (\$200,000), ~~or for an inland spill not to exceed fifty thousand dollars (\$50,000)~~, for each violation as imposed by the administrator pursuant to Section 8670.68, and each day or partial day that a violation occurs is a separate violation:

(1) Except as provided in Section 8670.27, fails to follow the applicable contingency plans or the direction or orders of the administrator in connection with a spill or inland spill.

(2) Fails to notify the Coast Guard that a vessel is disabled within one hour of the disability and the vessel, while disabled, causes a discharge that enters marine waters or inland waters. For the purposes of this paragraph, “vessel” means a vessel, as defined in Section 21 of the Harbors and Navigation Code, of 300 gross registered tons or more.

(3) Is responsible for a spill ~~or inland spill~~, unless the discharge is authorized by the United States, the state, or other agency with appropriate jurisdiction.

(4) Fails to begin cleanup, abatement, or removal of spilled oil as required by Section 8670.25.

(b) Except as provided in subdivision (a), any person who intentionally or negligently violates any provision of this chapter, or Division 7.8 (commencing with Section 8750) of the Public Resources Code, or any permit, rule, regulation, standard, cease and desist order, or requirement issued or adopted pursuant to those provisions, shall be liable for an administrative civil penalty as imposed by the administrator pursuant to Section 8670.68, not to exceed one hundred thousand dollars (\$100,000) for each violation of a separate provision, or, for continuing violations, for each day that violation continues.

(c) No person shall be liable for a civil penalty imposed under this section and for a civil penalty imposed pursuant to Section 8670.66 for the same act or failure to act.

1 *SEC. 55. Section 8670.67.5 of the Government Code is*
2 *amended to read:*

3 8670.67.5. (a) Any person who without regard to intent or
4 negligence causes or permits a spill ~~or inland spill~~ shall be strictly
5 liable civilly in accordance with subdivision (b) or (c).

6 (b) A penalty may be administratively imposed by the
7 administrator in accordance with Section 8670.68 ~~in an amount~~
8 ~~not to exceed ten dollars (\$10) per gallon of oil released for an~~
9 ~~inland spill, and in an amount not to exceed twenty dollars (\$20)~~
10 per gallon for a spill. The amount of the penalty shall be reduced
11 for every gallon of released oil that is recovered and properly
12 disposed of in accordance with applicable law.

13 (c) Whenever the release of oil resulted from gross negligence
14 or reckless conduct, the administrator shall, in accordance with
15 Section 8670.68, impose a penalty ~~in the amount of thirty dollars~~
16 ~~(\$30) per gallon of oil released for an inland spill, and in an amount~~
17 not to exceed sixty dollars (\$60) for a spill. The amount of the
18 penalty shall be reduced for every gallon of released oil that is
19 recovered and properly disposed of in accordance with applicable
20 law.

21 (d) The administrator shall adopt regulations governing the
22 method for determining the amount of oil that is cleaned up.

23 *SEC. 56. Section 8670.69.4 of the Government Code is*
24 *amended to read:*

25 8670.69.4. (a) When the administrator determines that any
26 person has undertaken, or is threatening to undertake, any activity
27 or procedure that (1) requires a permit, certificate, approval, or
28 authorization under this chapter, without securing a permit, or (2)
29 is inconsistent with any of the permits, certificates, rules,
30 regulations, guidelines, or authorizations, previously issued or
31 adopted by the administrator, or (3) threatens to cause or
32 substantially increases the risk of unauthorized discharge of oil
33 into the ~~marine~~ waters of the state, the administrator may issue an
34 order requiring that person to cease and desist.

35 (b) Any cease and desist order issued by the administrator may
36 be subject to ~~such~~ terms and conditions as the administrator may
37 determine are necessary to ensure compliance with this division.

38 (c) Any cease and desist order issued by the administrator shall
39 become null and void 90 days after issuance.

(d) A cease and desist order issued by the administrator shall be effective upon the issuance thereof, and copies shall be served immediately by certified mail upon the person or governmental agency being charged with the actual or threatened violation.

(e) Any cease and desist order issued by the administrator shall be consistent with subdivision (a) of Section 8670.27.

SEC. 57. Section 8670.69.7 of the Government Code is repealed.

~~8670.69.7. All penalties collected under this article for inland spills shall be deposited into the Fish and Wildlife Pollution Account in the Fish and Game Preservation Fund and be available for expenditure in accordance with Section 12017 of the Fish and Game Code.~~

SEC. 58. Section 8670.71 of the Government Code is amended to read:

8670.71. (a) The administrator shall fund only those projects approved by the Environmental Enhancement Committee.

(b) For the purposes of this article, an enhancement project is a project that acquires habitat for preservation, or improves habitat quality and ecosystem function above baseline conditions, and that meets all of the following requirements:

(1) Is located within or immediately adjacent to ~~California~~ *marine waters of the state*, as defined in ~~subdivision (i) of Section 8670.3.~~

(2) Has measurable outcomes within a predetermined timeframe.

(3) Is designed to acquire, restore, or improve habitat or restore ecosystem function, or both, to benefit fish and wildlife.

SEC. 59. Section 8670.90 is added to the Government Code, to read:

8670.90. (a) *To the extent possible under federal law, and in order to provide public transparency, it is the policy of the state that local communities that face significant risks associated with the transport or planned transport of significant quantities of crude oil through or near them be notified of the quantities and properties of the crude oil in a timely manner.*

(b) *Each railroad intending to transport crude oil into or within the state shall provide to the administrator on at least an annual basis the following information:*

(1) *A list of the type and quantity of crude oil transported during the previous 12-month period.*

1 (2) *A description of the method of properly handling each type*
2 *of crude oil in case of an incident.*

3 (3) *The name, address, and telephone number of the railroad's*
4 *person in charge of education and training related to handling of*
5 *crude oil.*

6 (4) *The approximate normal operating schedules for trains*
7 *carrying crude oil.*

8 (5) *Normal procedures for placement of cars carrying crude*
9 *oil in trains.*

10 (6) *Means to obtain information from the railroad, including*
11 *the railroad's 24-hour emergency telephone number, in case of*
12 *an incident.*

13 SEC. 60. *Section 8670.95 is added to the Government Code,*
14 *to read:*

15 8670.95. *If any provision of this chapter or the application*
16 *thereof to any person or circumstances is held invalid, that*
17 *invalidity shall not affect other provisions or applications of the*
18 *chapter that can be given effect without the invalid provision or*
19 *application, and to this end the provisions of this chapter are*
20 *severable.*

21 SEC. 61. *No reimbursement is required by this act pursuant*
22 *to Section 6 of Article XIII B of the California Constitution because*
23 *the only costs that may be incurred by a local agency or school*
24 *district will be incurred because this act creates a new crime or*
25 *infraction, eliminates a crime or infraction, or changes the penalty*
26 *for a crime or infraction, within the meaning of Section 17556 of*
27 *the Government Code, or changes the definition of a crime within*
28 *the meaning of Section 6 of Article XIII B of the California*
29 *Constitution.*